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The Problem of Corporate Takeovers —What Is To Be Done?

Peter F. Drucker

The Declining Well-Being of American Adolescents	*Peter Uhlenberg & David Eggebeen*
The Case for Revenge	*Andrew Oldenquist*
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Welfare and Dependency in Switzerland	*Ralph Segalman*

Educating for the Professions

Stephen White on Journalism Schools

William Alonso on Planning Schools

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CONTENTS

Corporate Takeovers—What Is To Be Done?	*Peter F. Drucker*	3
The Declining Well-Being of American Adolescents	*Peter Uhlenberg & David Eggebeen*	25
Professional Education Series		
Why Journalism Schools?	*Stephen White*	39
The Unplanned Paths of Planning Schools	*William Alonso*	58
The Case for Revenge	*Andrew Oldenquist*	72
Is "Strict Separation" Too Strict?	*Morris B. Abram*	81
Chemical Catastrophes and the Courts	*Martin T. Katzman*	91
Welfare and Dependency in Switzerland	*Ralph Segalman*	106
Contributors		122
Current Reading		123

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Corporate takeovers—what is to be done?

PETER F. DRUCKER

ALMOST EVERY WEEK these last few years there has been a report of another "hostile takeover bid," another stock market maneuver to take over, merge, or split up an existing publicly-held company against determined opposition by the company's board of directors and management. No such wave of stock market speculation has hit the U.S. since the "bears" and the "bulls" of the 1870s, when the Goulds and the Drews and the Vanderbilts battled each other for control of American railroads. The new wave of hostile takeovers has already profoundly altered the contours and landmarks of the American economy. It has become a dominant force—many would say *the* dominant force—in the behavior and actions of American management, and, almost certainly, a major factor in the erosion of American competitive and technological leadership. Yet the papers usually report it only on the financial page. And very few people, outside of business, really quite know what goes on or, indeed, what a "hostile takeover" really is.

The hostile takeover usually begins with a "raider"—a company, or an individual who is legally incorporated and works through a corporation—buying a small percentage of the "target's" share capital on the open market, usually with money borrowed expressly for this purpose. When, and as the raider expects, the target's board of directors and its management spurn his takeover bid, the raider

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borrows more money—sometimes several billion dollars—buys more of the target's shares on the market and goes directly to the target's stockholders, offering them substantially more than the current share price on the stock exchange. If enough of the target's shareholders accept to give the raider complete control, he then typically unloads the debt he has incurred in the takeover onto the company he has acquired. In a hostile takeover the victim thus ends up paying for his own execution.

The raider not only now controls a big company; he has made a tidy profit on the shares he bought at the lower market price. Even if the takeover attempt fails, the raider usually wins big. The target may only be able to escape the raider by finding a "white knight," that is, someone who is less odious to the management of the target company and willing to pay even more for its shares, including those held by the raider. Alternatively, the target company pays ransom to the raider—which goes by the Robin Hood-like name of "greenmail"—and buys out at a fancy price the shares the raider acquired, a price way beyond anything their earnings and prospects could justify.

Hostile takeovers were virtually unknown before 1980. Harold Geneen, who built ITT into the world's largest and most diversified conglomerate in the 1960s and 1970s, made literally hundreds of acquisitions—perhaps as many as a thousand. But he never made an offer to a company unless its management had first invited him to do so. Indeed, in a good many of Geneen's acquisitions the original initiative came from the company to be acquired; it offered itself for sale. In those days it would have been impossible to finance hostile takeovers—no bank would have lent money for such a purpose. But since 1980 they have become increasingly easy to finance.

At first, hostile takeovers were launched by large companies intent on rapid growth or rapid diversification. This phase reached a climax in 1982 with a months-long battle among three giants: Bendix (defense and automotive), Martin-Marietta (defense, aerospace, and cement), and Allied (chemicals). Bendix began the fight with a hostile takeover bid for Martin-Marietta, which promptly counterattacked with a hostile takeover bid for Bendix. When these two, like scorpions in a bottle, had finished each other off, Allied joined the fray, paid ransom to an exhausted Martin-Marietta, took over Bendix, and in the process ousted the Bendix management which had started the battle.

Since then, raiders increasingly are individual stock market operators whose business is the hostile takeover. Some, like Carl Icahn, range over the lot, attacking all kinds of businesses. T. Boone Pickens,

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originally a small, independent oil producer, specializes in large petroleum companies—his targets have included such major companies as Gulf Oil, Phillips Petroleum, and Union Oil. Ted Turner of Atlanta specializes in the media and was embroiled in a hostile takeover bid for the smallest of the three television networks, CBS. But there are dozens of smaller raiders abroad, many of them looking for fast-growing medium-sized companies, especially companies in such currently "sexy" fields as electronics, computers, or biotechnology. Others primarily raid financial institutions. Practically all of them do so on money borrowed at high interest rates.

Why the raider succeeds

How many hostile takeover bids there have been, no one quite knows. Conservative estimates run to 400 or 500, with at least one-half ending in the disappearance of the target company either because the raider succeeds or because the target finds a white knight. Such a massive phenomenon—whether considered destructive or constructive—surely bespeaks fundamental changes in the underlying economic structure and the environment of American business and the American economy. Yet to my knowledge there has so far been practically no discussion of what might explain the takeover phenomenon, of its meaning, and of the policy questions it raises.

What, for instance, explains the *vulnerability* of companies, among them a good many big, strong, well-established ones? Few of the raiders have much financial strength of their own. Most have little managerial or business achievement behind them. In the 1960s and early 1970s, the managements of big, publicly-owned companies were widely-believed to be impregnable; nothing short of the company's bankruptcy could threaten, let alone dislodge, them. It was then considered almost a "self-evident truth" in highly popular books (such as those of John Kenneth Galbraith, for instance) that we had moved into "corporate capitalism" as a new and distinct "stage," one in which professional managers perpetuated themselves and ran the country's big business autonomously, ruling without much interference from any of their supposed "constituencies." But in the last few years, any number of companies, and particularly large companies doing well by any yardstick, have been swallowed up by hitherto unknown and obscure newcomers despite the most vigorous defense by their management.

These raiders often have no capital of their own, but have to borrow every penny they need to buy a small percentage of the com-

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pany's stock and then to make their takeover bid. By now, to bar a hostile takeover bid even giants like General Motors are forced into expensive and complicated subterfuges such as splitting their shares into a number of different issues, each with different voting rights. What has happened to "corporate capitalism" and to the "absolute control by professional, autonomous management," seemingly so firmly established only a little while ago?

Fundamentally, there are three explanations for this extreme vulnerability of established companies to the hostile takeover.

One explanation is inflation.

Then there are structural changes within the economy which make a good many of yesterday's most successful companies no longer suited to today's economic realities.

Finally, "corporate capitalism"—that is, the establishment of a management accountable only to itself—has made managements and companies exceedingly vulnerable. They have no constituencies to come to their succor when attacked.

Inflation distorts. It distorts values. It distorts relationships. It creates glaring discrepancies between economic assumptions and economic realities. The fifteen years of inflation in America which began during Lyndon Johnson's presidency and continued into the early 1980s were no exception. And the most predictable, indeed the most typical distorton of inflation is between the value of assets and their earning power. *In any inflation the cost of capital goods tends to rise much faster than the price of the goods they produce. It thus becomes economical to buy already existing capital assets rather than to invest in new facilities and new machines.* So any company that is rich in fixed assets is worth more when dismembered—that is, when its capital assets are being sold as pieces of real estate, as factories, as machinery and equipment—than it is worth on a realistic price/earnings ratio based on the value of its output. This is one of the distortions which the raiders exploit.

The stock market values companies on the basis of their earnings. It values them, in other words, as "going concerns." It does not value them on their liquidation value. As a result, a company heavy with fixed assets—and especially a company that also has a lot of cash with which the raider, after the takeover, can repay himself (and make a sizeable profit to boot)—becomes a most inviting target. This situation accounts for one-quarter, perhaps even one-third, of all the successful hostile takeovers.

Equally important are the tremendous structural changes in the American and world economies in the last fifteen years. They have made inappropriate a good many of the traditional forms of eco-

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nomic integration. The best example is probably the large, integrated petroleum companies. One need not sympathize with Mr. T. Boone Pickens, the raider who successfully forced one of the country's largest and proudest petroleum companies, Gulf Oil, into a shotgun marriage with a white knight, and almost succeeded in taking over two other old and well-established petroleum companies, Union Oil and Phillips. But Pickens has a point. He has forced the petroleum companies on which he leveled his guns to do something sensible: that is, to split the company into two parts, one making and selling petroleum products, one keeping reserves of crude oil in the ground.

Large integrated petroleum companies have performed poorly since 1980 or 1981. Their earnings basically reflect a crude oil price of around $12 or $15 a barrel, which is probably what the market would pay were there no OPEC cartel. But all of them have tried desperately, since the OPEC "oil shock" of 1973, to build up underground crude oil reserves for the future. And these reserves are priced in the market, and especially by people looking for a long-term tax shelter, on the expectation of a petroleum price many times the present price, twenty or thirty years hence. In fact, to justify what the market is paying for crude and crude oil reserves in the ground, one would have to assume a petroleum price of around $100 a barrel by the year 2015 or so—otherwise, on a discounted cash flow basis, the present valuation of these proven underground reserves could not possibly be justified.

Whether the expectation of high petroleum prices twenty or thirty years hence is rational is not the point. (Every historical experience would indicate that the only rational expectation is for the petroleum prices thirty years hence to be much lower than they are today—but this is another issue.) The fact is that it makes little sense today to be an "integrated" petroleum company. The interests of the people who want the earnings of the present petroleum company, and the interests of the people who look for a long-term tax shelter (and who, in other words, do not care much about present earnings), are not compatible. Therefore Pickens's proposal, that the integrated petroleum company split itself into two pieces, makes sense.

A similar situation exists in the steel industry, and in fact in a good many of the traditional large-scale, integrated, capital-intensive materials producers. Every one of these situations invites a raider.

But perhaps the biggest single reason why companies are vulnerable to the raider is "corporate capitalism" itself: that is, autonomous management accountable to no one, controlled by no one,

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and without constituents. It has made management arrogant. And far from making management powerful, corporate capitalism has actually made it impotent. Management has become isolated and has lost its support base, in its own board of directors, among its own stockholders, and among its own employees.

Wherever a management threatened by a raider has been able to organize a "constituency," it has beaten off the hostile takeover. One example is Phillips Petroleum in Bartlesville, Oklahoma, which mobilized the employees and the community; this was enough to defeat Pickens. But where managements have given in to the temptation to become omnipotent they have in effect rendered themselves impotent. When they are then attacked, they have nobody to support them if someone offers a few dollars over and above the current market price to the company shareholders.

Where the cash comes from

The vulnerability of the victims does not, by itself, explain how the raiders finance their takeovers. To mount a hostile takeover bid for a large company takes a very large war chest. One-and-a-half billion dollars is just about the minimum needed to attack a big company. In some recent cases the amount went up to $4 billion. It has to be in cash, as a rule. To be sure, if the takeover bid succeeds, the target company then pays. But the money has to be available from the beginning—that is, when it is by no means sure that the takeover bid will succeed. If the takeover bid is launched by an individual, as more and more of them have been in recent years, there usually is no security whatever for the cash that the raider has to borrow. The raider himself usually has negligible assets, certainly compared to the sums needed. Even if the takeover bid is being launched by another large company, the amount needed to finance it is usually way beyond anything the company could normally raise as additional debt. *Yet the only "security" for the loan that a raider has to obtain is the promise of repayment if the raid is successful.* This is hardly what was once normally considered a "bankable" loan, yet the raiders have had no difficulty obtaining these loans. Indeed, when the financing of hostile takeover bids switched (mostly for regulatory reasons) from being done by means of bank loans to being done by means of bonds, the market promptly named the bonds "junk bonds," and with good reason. Nevertheless, there is no difficulty in getting such bonds underwritten and issued, with commercial banks being avid buyers.

Bank loans—or junk bonds—to finance hostile takeovers are available for the same reason that countries like Brazil, Zaire, or

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Argentina, in the early 1980s, were able to obtain loans from Western banks in amounts that were clearly beyond their capacity to pay interest on (let alone to repay the loan itself), and for the same reason that large money-center banks, such as Continental Illinois in Chicago, were willing, indeed eager, to snap up highly speculative and sometimes fraudulent loans to often non-existent oil and gas speculators. *The American commercial bank is pinched by the shrinkage of its traditional sources of income and almost desperate to find new ones, and especially to find borrowers willing to pay very high interest rates.* And the raider who makes a hostile takeover bid is, of course, perfectly willing to promise very high interest rates; after all, he will not pay them—the company he is aiming to take over will, after it has succumbed.

Commercial banks, as every textbook states, make their living as "liquidity arbitrageurs." They obtain their money from "demand deposits" which have perfect liquidity—that is, the right to withdraw the money at any time. The bank then lends out that money for longer periods of time (from ninety days to three years is the ordinary time span of a "commercial loan"); so the amounts owed to the bank have far less liquidity than the amounts it owes. This, then, justifies the bank charging a substantially higher interest rate, with the difference between the interest rate on what the bank lends out and the interest rate on what the bank borrows being the bank's income.

Increasingly, this does not work any more, for the bank either is not able to be the "liquidity arbitrageur" or does not get paid for it. One reason is, of course, that zero-interest demand deposits, once prescribed by the regulatory authorities, have all but disappeared. Historically, businesses have provided the bulk of the demand deposits. But few businesses these days keep large cash supplies, and the typical checking account of individuals now pays 5.5 percent interest. Adding to this the costs of administration, acquisition, and so on, the bank probably ends up paying 8 or 9 percent for the money on deposit in customers' checking accounts—which means that even demand deposits no longer provide a substantial "interest spread." And most American consumers today keep in their checking account only a minimum balance. The rest is in accounts that pay much higher interest, such as money market accounts, which still allow high liquidity.

On the demand side, too, the "liquidity arbitrage" has become far less profitable. Increasingly, American businesses do not finance themselves through commercial loans, but through "commercial paper"—the business version of an installment loan. This, however,

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bypasses the banking system. The company with a temporary cash surplus directly buys commercial paper issued by another company with a temporary cash need. But profit in the "spread" on commercial paper between what the borrower pays and what the lender gets is much lower than that between the traditional non-interest on demand deposits and the bank's lending rate on commercial loans. That spread may be 1.5 percent as against 4 or 5 percent previously.

By now, most U.S. banks, especially the larger ones, know that they cannot hope to continue to build their business on the spread of interest rates between what they pay for their money and what they charge for it. They will have to shift their income base to fees and commissions. But even those few banks which accepted this ten years ago, and which since then have been working hard on shifting their source of income from being paid for money to being paid for information and service—Citibank in New York was probably the first, and is by far the leader—still have a very long way to go. And in the meantime the banks are hurting for sources of income. Hence the pressure on them to look for borrowers willing to pay higher interest—or at least to promise they will—whether they be Oklahoma wildcatters, military governments engulfed by inflation in their own country (such as Brazil and Argentina), or takeover raiders.

The lure of easy money

That the raiders can obtain the money they need still does not explain why the shareholders team up with the raider to take over, merge, or liquidate the company they own.

They do not do so, it is abundantly clear, because they believe the takeover will be advantageous to the company. On the contrary. The shareholders clearly know that the takeover bid is usually a disaster for the company. Increasingly, they sell their shares to the raider only if they get cash; that is, if they get out of the company and have nothing to do with it any more. Or, if they take securities in exchange, they immediately sell them. And yet, again and again, the shareholders, in their great majority, either accept the bid of the raider or turn it down only if a white knight offers more than the raider does. But then they also immediately sell whatever the white knight has given them in exchange against their holdings in the company that has disappeared.

The shareholders who control our large, publicly-held companies simply have no choice but to accept the raider's offer. They are forced, perhaps even legally forced, to accept the raider's bid if it is higher than the currently quoted price for the stock. This is essen-

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tially a result of the shift of share ownership from individuals to institutions who are "trustees," and especially to pension funds.[1] Pension funds (increasingly also mutual funds) are the legal "owners" of the publicly-owned companies of America, with their holdings amounting to about 50 percent of the common shares. The percentage is even higher for large companies since the institutional holders concentrate on them. The people who manage these large and growing aggregations of capital, especially the pension fund managers, are "trustees" rather than "owners." They are trustees both for the management of the companies which owe the pensions to their employees, and for the ultimate beneficiaries, the employees and future pensioners. As trustees they have, however, little choice as to whether they want to sell their shares if someone bids substantially above what the same shares fetch at the market price. They have to accept. If they were to say "no," they would lay themselves open to an enormous and uninsurable liability. The trustees could be sued by both the management of the company and the ultimate beneficiaries, the employees, were those shares, six months later, quoted below the price the raider had offered. Trustees do not have the right to superimpose *their* judgment on what a "prudent man" would do. And a prudent man surely will take the bird in the hand, especially if there is no reason to believe that there is a bird in the bush.

Pension fund managers are also under tremendous pressure to show better-than-average returns—and yet are unable to do so as a rule. The pension funds of most American businesses are "defined-benefit" plans. The company promises to pay the employee upon retirement a fixed proportion of the employee's salary, usually 60 percent or so of the last five years' earnings. What the employee is to receive is fixed, or rather will be fixed by the time the employee reaches retirement. What the company contributes, however, is flexible. The contribution payable by the company goes down if the pension fund increases in value—if, for instance, it shows a high return or profit from its investments. If the pension fund does not show earnings, or shows earnings lower than anticipated, the company's contribution goes up.

This is in sharp contrast to plans based on a "defined-contribution," under which what the company pays in each year is fixed, with the employee upon retirement receiving either a fixed stipend

[1] This was first pointed out ten years ago in my "Pension Fund 'Socialism'," *The Public Interest* No. 42 (Winter 1976), pp. 3-46.

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or a variable one which depends upon what the earnings of the pension fund have been.

In the defined-benefit plan, therefore, management constantly pushes the pension fund manager to show profits, especially from investments so that the company's contribution can be minimized. But this is a total delusion. It is in fact an impossibility. The pension funds by now *are* the American stock market. And if one is the market, one cannot possibly beat it.[2] The performance record of the pension funds bears this out. It has been abysmal, almost without exception. In fact, the desire to "beat the market" is in itself the reason why most pension funds have performed substantially worse than the market. As a result, the pension funds waste their substance by supporting a huge stock market which only fritters away in commissions the money that should go to the future beneficiaries. In the long and checkered history of investment and finance, there is probably no more uniformly dismal record than that of American pension fund management in the last twenty years.

And yet company managements still believe that their fund can "beat the odds"—the way each slot machine player in Las Vegas believes that he can beat them. And the pension fund manager who does not operate short-term, and who refuses to speculate, to trade, and to show "results" over the next three months, is likely to lose the account quickly. There is probably no more competitive industry around. This makes irresistible an offer by the raider to pay $55 for a share that is quoted at $40 on the market.

Pension fund managers know that the raider's bid is deleterious to the company whose stock they own. But they cannot consider the welfare and interests of their "property." They are not "owners." They are of necessity "speculators," even though they are legally vested with the owner's power. And so they behave as speculators. They have to accept the raider's bid unless a white knight makes a better offer.

The dangers of defensiveness

The wave of hostile takeovers is a result of profound structural changes in the American economy. But it is in itself a serious disorder. There is a great deal of discussion about whether hostile takeovers are good or bad for the shareholders. There can be absolutely no doubt, however, that they are exceedingly bad for the economy. They force management into operating short-term. More and more

[2] A point that has been brilliantly argued by the dean of American pension fund experts, Charles D. Ellis of Greenwich Research Associates, in his recent book, *Investment Policy* (Homewood, IL: Dow Jones-Irwin, 1985).

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of our businesses, large, medium-sized, and small, are not being run for business results but for protection against the hostile takeover. This means that more and more of our businesses are forced to concentrate on results in the next three months. They are being run so as to encourage the institutional investors, on which all publicly-traded companies today depend for their supply of capital, to hold onto the company shares rather than to toss them overboard the moment the first hostile takeover bid appears.

But worse still, companies are being forced to do stupid things to prevent themselves from being raided. It is, for instance, becoming dangerous for any company to be liquid. Liquidity can only attract the raider who can expect to repay himself, and the debt he incurs in bidding for the company, out of the company's own cash. And thus companies who find themselves in a liquid position, no matter how much cash they may need only a few months further on, hasten to squander the cash—for instance, in buying up something that is totally alien to their own business that has only one advantage: It absorbs a lot of money. Even worse, companies increasingly cut back on expenses for the future, such as research and development. One of the most ominous developments for the future of America is the speed with which the Japanese are taking over the markets of the rapidly industrializing countries: Brazil, for instance, or India. They do so because they can invest in the distribution system in these countries in anticipation of the future market. American company managements are perfectly aware of this. But when asked why they do not do likewise, they tend to say, "We cannot afford to set aside this money and invest it in tomorrow. We need it to make a good showing in next month's or next quarter's profits."

The fear of the raider is undoubtedly the largest single cause for the increasing tendency of American companies to manage for the short term and let the future go hang.[3] The fear of the raider demoralizes and paralyzes. The impact on the morale of management people and of professional people in the company can hardly be overestimated. And worse still, after the successful takeover, the morale in a company is destroyed, often forever. The people who can leave, do. The others do their minimum. "What's the point in my trying to

[3] In a recent column, (*Los Angeles Times*, July 4, 1985), Art Buchwald, the humorist, tried to make fun of the impact of the hostile takeover on management. The worst thing, Buchwald pointed out, for a management to do today is to run a business so that it shows a profit and is liquid. To keep its job and to keep the company it manages independent, it has to waste a maximum of money by buying businesses that are worthless and has to show the largest possible loss. While caricature, this, alas, was close enough to hurt.

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do a good job if the rug will be pulled out from under me tomorrow?" is a frequent comment. Add to this that the raiders, in order to reimburse themselves, usually start out by selling off the company's most promising businesses. Hence the impact of a takeover on morale is total catastrophe.

Altogether, the record is poor for all companies that have been merged, especially into a conglomerate or into a business with which they had little in common—for example, the typical financial conglomerate. Only three out of every ten such acquiring companies do as well two years later as they did before the merger. But the record of companies that have been acquired in a hostile takeover is uniformly dismal.

Clearly the hostile takeover cannot be justified as leading to a more efficient allocation of resources. Most of them have no aim except to enrich the raider. To achieve this end, he offers the stockholders more money for their shares than they would get on the market, which is to say, he bribes them. And to be able to pay the bribe he loads a heavy debt on the company that is being taken over, which by itself severely impairs the company's potential for economic performance. The fact that, almost without exception, the result of the hostile takeover is also a demoralization and severe impairment of the human organization disproves the argument that the hostile takeover results in a more efficient allocation of resources. Actually, all it proves is that "resources" in the modern business enterprise are not primarily bricks and mortar—or even oil in the ground. They are the human organization.

There are indeed cases where a human organization becomes more productive by being disassociated with its former enterprise, by being set up separately—in fact, a good many of today's large organizations, and especially the conglomerates, would greatly increase their productivity by being split into smaller units, or by establishing parts as separate businesses. But this is not what the hostile takeover accomplishes. On the contrary, the most valuable parts of the acquired business are invariably put on the block after a hostile takeover so as to raise money to pay off some of the debt. And this impairs both their productivity and that of the remaining assets.

There are serious questions about resource allocation in the American economy. But the hostile takeover is clearly not the right tool to bring about a more efficient allocation. It does severe damage to the true productive resource, the human organization, its spirit, its dedication, its morale, its confidence in its management, and its identification with the enterprise that employs its people.

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Even if hostile takeovers are "good for the shareholders"—and they are "good" only for the very shortest time—they are surely not good for the economy. They are indeed so bad that we will be forced to put an end to them, one way or another.

One way to do so might be to emulate the British and create a "takeover panel" with the power to stop takeover bids considered to be contrary to the best long-term interest of the enterprise and the economy. Whether such a panel could be set up in this country—or whether it would just become another troublesome government agency—is very doubtful. The way the British are doing it would immediately run afoul of our antitrust laws.

It is therefore more probable that we will put an end to the hostile takeover—or at least put serious obstacles in its path—by abandoning the concept of "one share, one vote" and go to shares which, while participating equally in profits (and in the proceeds of a liquidation) have unequal voting power, at least as long as the company shows adequate financial results. General Motors, as mentioned earlier, is already going this way. This would not be a radical departure. The British, for many years, had the Private Limited Company in which management held the voting power as long as it showed specified results. Similarly, the Germans, for well over a hundred years, have had the *Kommanditgesellschaft auf Aktien* in which management holds the majority of the voting power even though it has a very small minority of the share ownership—again, as long as there is adequate performance and results. In other words, a shift to a system in which different classes of shares have differential voting power—with Class A shares, for instance, having one hundred times the votes of Class B shares—would only need a few fairly simple safeguards to be functional: First, vesting the Class A shares, with their superior voting power, in a truly independent and strong board of directors rather than in management, a board on which independent outside directors have a clear majority (which is what the Germans require, by the way). Second, making the extra voting strength of the Class A shares conditional upon the company's showing specified results and adequate performance. Thus a two-class system of shares would control the hostile takeover and yet give protection against managerial malperformance and even against managerial mediocrity.

But perhaps the takeover wave will come to an end with a whimper rather than a bang by losing its financial underpinnings. It would not take much to bring this about. One default on one big loan to finance a hostile takeover, one "billion-dollar scandal" similar to the Penn Square collapse in Oklahoma that brought down

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Chicago's mighty Continental Illinois Bank—and there would be no more money available to finance hostile takeovers. And in the long history of finance, every single scheme which lured lenders into advancing money for economically non-productive purposes by promising them returns substantially above the going market rate has come to a bad end sooner or later—and usually sooner.

Even if we control the hostile takeover, however, there will remain the underlying structural problems of which the hostile takeover is only a symptom. It clearly raises basic questions about the following: the role, functions, and governance of pension funds; the legitimacy of management; and finally, the purpose of business enterprise, especially large enterprise. Are the stockholders the *only* constituents before whom all other interests, including that of the enterprise itself as a going concern, must be totally subordinated?

Where Wall Street meets Las Vegas

Abatement of the boom in hostile takeovers can, paradoxically, only aggravate the pension fund problem. It would eliminate the windfall profits pension funds now reap by accepting the inflated prices the raider offers. These windfall profits are, by and large, the only way for pension fund managers to obtain the quick stock market gains which their bosses, the company's managers, expect and demand of them. If they are eliminated, company managers will predictably put even greater pressure for quick results on the people who manage their company's pension fund; and those in turn will put even greater pressure for short-term results on the companies in the shares of which the fund invests—thus pushing businesses even further towards managing for the short term, which, as by now everybody agrees, is a significant factor in the steady erosion of America's competitive position in the world economy. As long as American pension funds are based on "defined-benefits" no relief is in sight.

It might have made sense for the labor unions to push for defined-benefits when pension funds first became widespread some thirty years ago. For under that system, the employer shoulders all future risks. Actually, in the negotiation of the contract which set the pattern for today's pension fund, the General Motors contract in the spring of 1950, the United Automobile Workers strongly opposed defined-benefits and wanted "defined-contributions" instead.[4] It

[4] I had occasion to discuss this issue repeatedly with Walter Reuther, head of the UAW when the contract was under negotiation. Reuther feared, groundlessly as it turned out, that defined-benefits would make the worker conscious of the identity of interest between himself and the employer and thus alienate him from the union.

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was management that chose defined-benefits—even though General Motors's president at the time, Charles E. Wilson, recommended a defined-contributions plan as financially much sounder. He as well as Walter Reuther were, however, overruled by GM's finance committee—and the rest of the country's pension plans then followed GM's lead. Yet the choice of defined-benefits—as we now realize, a major blunder—was based on the same delusion which makes people in Las Vegas believe that they will "make a fortune" if only they keep on feeding more quarters into the slot machine.

Under defined-benefits the company commits itself to paying the future pensioner a fixed percentage of his wage or salary during his retirement years. The contribution the company makes is then dependent on the value of the fund's assets in a given year, as against the present value of the future pension obligation. The higher the fund's present value the lower the current contribution, and vice versa. And so management deluded itself into believing that an ever-rising New York stock market is a law of nature—or at least of history—and that, therefore, under a defined-benefit plan, it would be the stock market, through its pre-ordained continuing rise, that would eventually provide the money to discharge the pension obligation rather than the company itself. Indeed, quite a few managements then promised their boards of directors that the defined-benefits plan would in the long run become a "money spinner" for the company and would produce income well above anything it would have to put into the plan.

And then—the second delusion: Practically every company adopting a defined-benefits pension plan did so with the firm belief that its own pension plan, if only administered "professionally," would "beat" *even* an ever-rising market.

There is, of course, no law of nature or of history that prescribes an ever-rising stock market. Stock markets historically have not even been particularly effective as hedges against inflation: The American market in the last twenty years, for instance, barely kept pace with it. Indeed a large pool of money which over any long period of time grows at all, let alone as fast as the economy, is the rarest of all exceptions—neither the Medici nor the Fuggers, nor the Rothschilds nor the Morgans, succeeded in this endeavor. Similarly, no large-company pension fund, to the best of my knowledge, has over the last twenty or thirty years done as well as the stock market. The only performance that counts in the pension fund is performance over the long run, since the obligations extend over twenty-five years or longer. Indeed, some of the large defined-contribution funds have produced better results for their beneficiaries, the employees and

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future pensioners, and at lower cost to the employers, than the great majority of the large defined-benefit plans. This is most definitely true of the largest of the defined-contribution plans, that of the employers and employees of the American non-profit institutions, the Teachers Insurance and Annuity Association.

The misconceptions that led American management into opting for defined-benefits thus practically guaranteed from the beginning that the funds would have to become "speculators" and increasingly short-term in their focus.

The choice of defined-benefits also explains in large part the poor social performance of the American pension fund. For it was conceived—as Walter Reuther quite rightly suspected—as much to be a social as to be a financial institution. It was conceived to create a visible center of common interest between employer and employee. Indeed, what General Motors had in mind was very similar to what the Japanese, acting quite independently a few years later, achieved by "lifetime employment." But unlike lifetime employment the American pension fund has not created any community of interest in the worker's mind.

The laws that govern the private pension plans in America define their managers as "trustees" for the eventual beneficiaries, the employees. In reality the managers of defined-benefit plans are of necessity appointed by and accountable only to company management. For the one at risk is the employer—and so the fund has to be run to reduce, as much as possible, the burden on the employer. As a result, the employees feel no responsibility for the fund. It is "deferred wages" rather than a "stake in the company." The employees do not feel that it makes any difference how the fund performs. And they are right: Unless the company goes bankrupt it does not make any difference to them. They also, in a defined-benefit plan, cannot in any meaningful way be brought into the decision-making process through the pension funds, the actual owners of America's productive resources.

A defined-contributions plan is no panacea, but it minimizes the problems. The right model was easily available thirty years ago—for the Teachers Insurance and Annuity Association (TIAA) goes back much further, to the early 1920s. The TIAA runs on "flexible contributions" rather than on defined-contributions. The contribution made each year into the plan by a university, or a nonprofit organization such as the Boy Scouts, or for a minister in a Protestant denomination, is a fixed percentage of salary. It goes up as the employee advances. It also—and this is an important point—automatically adjusts

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the annual contribution to inflation. And yet this annual premium is known and predictable. And because of this, the TIAA can, and does indeed, invest for the long term—which in turn explains why its results have been better than that of any of the large defined-benefits plans. At the same time, the TIAA, precisely because the employer has discharged his obligation in full once he remits a fixed percentage of the employee's salary, has been able to bring the future beneficiaries, that is, today's employees, into the government of the institution. University faculty do not consider the TIAA the "employer's pension fund"; it is "our pension fund" in which they take an active interest and which to them meaningfully symbolizes the basic identity of economic interest between their employer, i.e., the university, and themselves.

Pension plans are beginning to change, albeit very slowly. Many companies, especially medium-sized ones, now encourage employees to make their own pension provisions, often out of company-provided funds, for example, through an Individual Retirement Account. That at least makes possible a rational (that is, a long-term) investment policy. But for the foreseeable future the bulk of our corporate pension plans will remain committed to the defined-benefits formula. The principal legal owners of our large companies, the large pension funds, will therefore continue to be forced to act as speculators rather than as investors, let alone as owners. And thus there will, for the foreseeable future, be a need to protect the economy's wealth-producing resources, that is, its businesses—and the pension funds themselves—against the pressure to manage for the immediate, the short-term, the next month, the next quarter, and above all against the takeover.

Demise of the corporate guardians

"Corporate capitalism"—the rule of autonomous managers as the "philosopher kings" of the modern economy accountable at best to a professional code but not controlled by shareholders or by any other constituency—was first proclaimed more than fifty years ago by Adolf Berle and Gardiner Means in their 1932 classic, *The Modern Corporation and Private Property*. "Control," Berle and Means argued, had become divorced from "property." Indeed, "property" was no longer "ownership." It had become investment, concerned only with dividends and capital gains but not with the welfare or the governance of the property itself.

From the beginning, anyone with any knowledge of political theory or political history could have predicted that this would not

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work.[5] Management, one could confidently say, would not last any longer as philosopher king than any earlier philosopher king had, which was never very long. Management has power. Indeed, to do its job, it *has* to have power. But power does not last, regardless of its performance, its knowledge, and its good intentions, unless it is grounded in some sanction outside and beyond itself, some "grounds of legitimacy," whether "divine institution," or "election," or "the consent of the governed." Otherwise, power is not "legitimate." It may be well-meaning, it may perform well, it may even test out as "highly popular" in surveys and polls. Yet illegitimate power always succumbs to the first challenger. It may have no enemies; but no one believes in it, either, and no one owes it allegiance.

This should have been obvious to American management fifty years ago when Berle and Means first pointed out that there was no more real "ownership" in the American corporation. After all, that the philosopher king—that is, power grounded in performance rather than in legitimacy—would not last had been known since Aristotle's dismissal of Plato's philosopher king, all of 2,300 years ago. But American management did exactly what all earlier philosopher kings have done—for example, the "Enlightened Despots" of eighteenth-century Europe. It gloried in its good intentions. And American managements busily engaged in removing what they considered as the last obstacle to their enlightened rule, an independent and powerful board of directors. And then, when the investors of Berle and Means became the speculators of the pension fund, management found itself powerless against the first challenger, the raider. The hostile takeover bid is thus the final failure of corporate capitalism.

But we do need management. The business enterprise needs a government; and it needs a government that has power, has continuity, and can perform. In other words, it needs a government that has legitimacy. How can legitimacy be restored to the management of America's large, publicly-owned companies?

One step, surely the first one, is to restore an independent and strong board of directors. Indeed, as has already been pointed out, where such a board exists, raiders, by and large, have been beaten off. Even shareholders whose only interest is the quick buck are likely to listen to a strong and independent board which has standing and respect in the community and is not dismissed as management's puppet. The hostile takeover may thus finally succeed in bringing about the reform and restoration of the strong, indepen-

[5] As I did indeed predict in my 1942 book, *The Future of Industrial Man*.

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dent board of directors which a great many voices within the business community have been demanding for many years.[6]

But such a board would not and could not be a representative of the shareholders alone. The board member who commands enough respect to be listened to is likely to be an "independent director," that is, somebody who does not represent any constituency, including the nominal owners, but rather the integrity and the interest of the enterprise itself. The hostile takeover is thus almost certain to speed up a development that is already under way: the emergence of professionally qualified men and women who serve on a very small number of boards—maybe no more than four at a time; who have independent respect and standing in a broader community based on their achievements and known integrity; and who take seriously their responsibilities, including the responsibility to set performance goals for top management and to police them, to monitor the behavior and ethics of top management, and to remove even the proudest chief executive officer who does not live up to the standards set by the board in the interest of the enterprise.[7]

But is this not simply replacing one set of philosopher kings with another group of "technocrats" or "wise men"? To be sure, independent outside board members, unlike a company president, do not fight for their own jobs when they resist a takeover. But they still do not represent any identifiable constituency, nor do they have any "grounds of legitimacy" other than disinterested performance and knowledge. Will the large public corporation in America have to learn to mobilize new constituents, to bring in other "interests" to balance the former owners now become speculators, and to create new bonds of allegiance?

Reportedly, would-be raiders refrain from making a hostile takeover bid for a company in which employees hold a substantial portion of the shares. They know that employee-owners are not likely to accept the raiders' offer. Most employees stand to lose more, of course, if their jobs are endangered than they can possibly gain by getting more for their stock. Above all employees identify with the company, and are personally and emotionally attached to its remaining independent. And the most spectacular defeat of a hostile takeover bid was not achieved by a management with a strong performance record. It was the previously mentioned defeat of the bid for

[6] Among them Harold Williams, the former president of Norton Simon and later Securities and Exchange Commission chairman.

[7] On this, see "Needed: An Effective Board," Chapter 52 of my book *Management, Tasks, Responsibilities, Practices* (New York: Harper & Row, 1973).

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Phillips Petroleum in Bartlesville, Oklahoma, when the town itself rallied to the defense of its major employer.

Thirty years ago it was popular in American big business to talk of management as being the "trustee for the best-balanced interests of stockholders, employees, plant community, customers and suppliers alike." In many cases, of course, this was merely a phrase meant to clothe with respectability the managerial philosopher king and his "enlightened despotism." But even where there was more to this assertion than self-interest, nothing has been done as a rule to convert the phrase into reality. Few attempts have been made to institutionalize the relationship of these supposed "constituencies" to the enterprise and its management. Will this now have to be undertaken in earnest to safeguard both enterprise and management? And what form should such institutional relationships take?

The challenge to free enterprise

The question being most hotly debated currently is whether hostile takeovers are good or bad for shareholders. But what other groups may have a legitimate stake in the fight for the control and survival of the enterprise is probably more important, though less discussed. Does the modern, publicly-owned, large enterprise exist *exclusively* for the sake of the shareholders? This is, of course, what orthodox "capitalism" asserts. But the term "free enterprise" was coined forty or fifty years ago to assert that the shareholder interest, while important, is only one interest and that the enterprise has functions well beyond that of producing returns for the shareholder—functions as an employer, as a citizen of the community, as a customer, and as a supplier. The British, in establishing a "Takeover Panel," have expressly recognized that a decision on mergers and takeovers affects the public interest. So far in the United States, this is expressed only negatively, that is, in forbidding mergers that violate antitrust laws. Will we have to bring in considerations of the impact on other groups and on the community and economy as a whole—and in which form? That is the central question. The answers this country will give to it will largely define the future shape of the American economy.

If the answer is, however, that the speculator's interest—never mind that the speculator has legal title as an owner—is the only interest to be considered, the "free enterprise system" is unlikely to survive. It will rapidly lose public support. For most people, even though they do benefit—however indirectly (that is, as ultimate beneficiaries in a pension fund)—from the speculator's game, stand

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to lose more from the hostile takeover as employees, whether blue-collar or managers, and as citizens of a community. And more and more people are concerned with the hostile takeover as a moral issue. It deeply offends the sense of justice of a great many Americans.

Most Americans today are employees of an organization. There is a good deal of evidence that people in an organization, and especially managerial and professional people, will accept even the most painful adjustment, such as the closing of a business or the sale of parts of it, if the rationale is economic performance or the lack thereof. But this of course is not the rationale for the purchase or sale of the human organization or of its parts in the hostile takeover. There the only rationale is to enrich somebody who has nothing to do with the performance of the enterprise and who, quite admittedly, has not the slightest interest in it. And this goes against the grain of employees who feel that the hostile takeover treats them as "chattel" and not as a "resource," let alone as human beings. "Is the hostile takeover even compatible with our laws against peonage and involuntary servitude?" the middle-level executives in my advanced-management classes have been asking me of late.

Almost a hundred years ago the U.S. decided that the rights of the creditor are not absolute, and amended its bankruptcy laws to put maintenance and restoration of the "going concern" ahead of the rights of the creditor, which till then had ruled when a business got into difficulties. This has worked remarkably well. The protection of the going concern during reorganization has indeed proven to be in the ultimate interest of the creditor, too. Will we now do the same thing with respect to the hostile takeover, and give consideration to the protection of the "going concern" as a resource, and to the interests of employees, whether blue-collar, white-collar or managerial, of the community, of suppliers and customers? Actually we are already moving in this direction through extending the protection of the bankruptcy laws to non-bankrupt going concerns threatened by subjection to one single interest. The Johns-Manville Corporation—a leading producer of asbestos and other building materials—successfully invoked the bankruptcy laws to preserve itself as a going concern and to protect its shareholders and its employees against a tidal wave of asbestos-damage liability suits. Continental Airlines similarly used the bankruptcy laws successfully to preserve itself against union wage claims that had become unbearable when deregulation made airfares and airline routes hotly competitive. It is by no means inconceivable that a clever lawyer will similarly construe the bankruptcy laws to preserve the going con-

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cern against the hostile takeover—and that the courts will go along as they did in the Johns-Manville and Continental Airlines cases. But one way or another—by law, by moving to multi-tier stock ownership, or by judicial exegesis—we surely will find a way to protect the going concern against hostile takeovers which subordinate all other interests—employees, the enterprise's long-range growth and prosperity, and the country's competitive position in an increasingly competitive world economy—to short-term speculative gain.

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The declining well-being of American adolescents

PETER UHLENBERG & DAVID EGGEBEEN

THE 1960s and 1970s should have been a golden era for the development of American youth. Over these two decades we should have expected to see significant improvements in the well-being of adolescents. After all, indicators of what mainstream social scientists and policy makers regard as the important determinants of child welfare were going in the "right" direction. However, a comparison of youth in 1980 with youth in 1960 reveals that what "should" have happened did not happen. Indeed, most indicators of well-being show a marked deterioration. Could social scientists have overlooked the most crucial determinants of children's welfare? Could a preoccupation with variables that are amenable to empirical measurement or to public policy manipulation have diverted attention from variables that are more important?

By way of answer, we will focus on young people aged 16 to 17. Our statistics are as specific to this age group as possible. To avoid the complications of interpretation raised by the divergent experiences of different racial groups, we deal only with white adolescents.

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Poverty and the family

No one seriously questions that child development is significantly influenced by family environment. The particular *type* of family most congenial to child development is, of course, debated. But there is widespread agreement as to several structural factors that have detrimental effects on children: poverty, large family size, and poorly-educated parents. Children whose families have these characteristics are considered disadvantaged. As to poverty, the much-discussed Carnegie Council's report on children could not be more certain: "The single most important factor that stacks the deck against tens of millions of American children is poverty." The drawbacks of a large family are likewise taken for granted. Judith Blake, past president of the Population Association of America and a demographer at UCLA, writes that the negative effects of large families on children are almost as significant as low socioeconomic status: "Numbers of siblings . . . is found to have an important detrimental impact upon child quality. . . ." So, too, the disadvantages of having poorly-educated parents are commonly noted. Such parents, it is assumed, provide their children with less exposure to cultural experiences, and a modicum of personal motivation.

Because the negative impact of these three family characteristics is so widely assumed, it is important to examine the course of each over the past few years. The Public Use Microdata Samples from the 1960, 1970, and 1980 U.S. Censuses of Population provide the information that we need to calculate recent trends in poverty. Because the official poverty line as established by the Census Bureau is often considered to be too low, we will use 1.25 of the poverty level as a cutoff. For each date, the proportion of youths aged 16 to 17 living in families with a total income below 1.25 of the poverty line is calculated. The experience of poverty by white American youth is shown in line 1 of Table I.

A dramatic decline in poverty occurred over these two decades, as the proportion living in poverty fell 60 percent (from 25 percent to 10 percent of all youth). Moreover, because this measure of family income excludes in-kind assistance (such as food stamps, Medicaid, and housing allotments, all of which increased greatly after 1960), these figures actually *understate* the economic gains of poor families. To be sure, poverty was not eliminated and substantial income inequality persists over this time interval. Nevertheless, the proportion of young people experiencing whatever disadvantages come from living in poverty has declined sharply.

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Table I. 16- and 17-Year-Olds Experiencing Selected Family Disadvantages[a]

Disadvantage	*1960*	*1970*	*1980*
Poverty	24.7%	12.0%	9.9%
Large Family (4 siblings or more)	21.1%	24.7%	13.6%
Low Parental Education:			
Mother not a high school graduate[b]	57.0%	39.3%	24.4%
Father not a high school graduate[c]	64.0%	42.4%	26.7%
None of these disadvantages	31.6%	43.7%	62.5%
Total Sample Size	4,466	6,081	6,199

[a] *Source:* Tabulated from the Public Use Microdata Samples from the 1960, 1970, and 1980 U.S. Censuses of Population.
[b] Excludes children living in families with no mother present.
[c] Excludes children living in families with no father present.

We turn now to the second negative family characteristic: a large number of siblings. According to the standard argument, there is not only an indirect effect of large family size on economic status (more children, *ceteris paribus*, means lower per capita income); more children also implies a dilution of the parental resources available to each individual child. This dilution effect may explain why a number of studies show that children from large families, on average, perform more poorly on various measures of intelligence and intellectual achievement than children from small families, even after controlling for the socioeconomic status of the family.

If having more brothers and sisters detracts from adolescents' well-being, then adolescents living around 1980 were distinctly advantaged. Row 2 of Table I shows the changing proportion of young people who had four or more siblings living in their family. This proportion increased slightly from 1960 to 1970, but then declined by nearly *50 percent* by 1980—a dramatic drop that reflects the declining birth rate in the U.S. after 1960.

The third adverse family characteristic, low parental education, is here defined as a household in which the mother has less than a high school education. As anyone familiar with recent trends in education can predict, fewer and fewer adolescents are living in such families. The figures (row 3 of Table I) showing the change over this twenty-year period are striking. The proportion of adolescents living with a low-educated mother fell from 57 percent in 1960 to 24 percent in 1980. The results are moreover quite similar if we examine the educational achievements of fathers. If more education enables parents to pass on more advantages to their children, then an increasing proportion of adolescents is advantaged.

Thus to judge by the three variables that are widely-held to be most important, the family backgrounds of American youth improved

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significantly from 1960 to 1980. The proportion of 16- to 17-year-olds who lived in homes without poverty, large families, or low-educated parents doubled (from 32 percent to 63 percent) over these two decades. There were, to be sure, other changes in family environment occurring during these decades. The proportion of children with a mother in the labor force, or with parents who divorced, increased substantially. But these two factors are deliberately excluded here, because a majority of social scientists argue that these changes are not disadvantages, once economic conditions in the family are controlled for. In fact, arguments *against* the view that working mothers or divorced parents harm the well-being of children are presented with considerable vehemence. Mary Jo Bane, for example, has stated in her book *Here to Stay* that, "There is no evidence that having a working mother per se has harmful effects on children." A report from the Administration for Children, Youth, and Families informs us that, "Recent research using adequate controls for economic status suggests that differences in long-term behavior between children from one- and two-parent homes of comparable economic status are small or even nonexistent." We will return to these arguments later, but first let us examine other aspects of the environments of young people.

Schools and government programs

Evaluations of American public education in recent years, with few exceptions, have been harsh. But if we ignore the critics, who tend to focus on the outcomes of education, we can see remarkable "improvements" in our schools. In particular, improvements can be seen in those areas which can be altered deliberately: expenditures per pupil, qualifications of teachers, and size of classes. While no one argues that these are the only important components of quality education, they are clear indicators of the social investment in schooling. Further, the educational literature emphasizes that increasing the resources available to schools, providing children with more highly-trained teachers, and reducing the ratio of children to teachers will have beneficial effects upon children.

The story of recent investments in American public schools is told succinctly in Table II. In constant 1980 dollars, expenditures per pupil went from $1,248 in 1960 to $2,491 in 1980—a whopping 99.6 percent increase. The credentials held by classroom teachers multiplied, as the proportion having a degree beyond the bachelor's rose from less than one-quarter to almost half. The average number of pupils per class in secondary schools dropped from twenty-eight in

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Table II. Changes in Schools[a]

	1960	1970	1980	% Change, 1960-1980
Per-Pupil Expenditures on Schooling (in 1980 dollars)	$1,248	$1,963	$2,491	99.6%
Teachers With Highest Degree Above Bachelor's	23.5%	27.5%	49.6%	110.1%
Average Number of Secondary School Pupils per Class	28	27	23	−17.9%

[a] *Source:* National Center for Educational Statistics, *Digest of Educational Statistics: 1983-1984.*

1960 to twenty-three in 1980. Thus, contrary to popular opinion, significant advances were made in education investments, and American adolescents should have experienced a higher quality school environment in 1980 than in 1970 or 1960.

A variety of other "reforms" advocated by educators have also been achieved, or partially achieved, over the past several decades. "Sexist" and "racist" language was expunged from textbooks. School nutrition programs were greatly expanded. Compensatory educational programs were developed to meet the needs of exceptional children. Psychologists and guidance counselors were added to the schools. Sex education and "values clarification" gained a place in the curricula of many junior and senior high schools. Use of corporal punishment declined and recognition of "students' rights" increased. While advocates of these changes tend to complain that not enough has been done, it is nonetheless clear that each change tends toward the direction advocated by progressive educators.

There are a variety of social forces beyond the family and school which also shape the environment within which children develop. How much of the federal government's attention and how many of its resources have been directed toward American youth? If one listened only to statements coming from the child advocates, the answer would be that the federal (and state and local) government has seriously neglected children and has been niggardly in meeting their needs. The actual trend from 1960 to 1980, however, hardly indicated a declining commitment to the welfare of American children. In fact, large and pervasive increases were made on social welfare expenditures for children and youth over these years, with the rationale that these were investments in children, "who are the future."

Total federal expenditures for social welfare, in constant 1980 dollars, increased from $39.8 billion in 1960 to $244.4 billion in 1980

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—more than a six-fold increase over two decades. Since the U.S. population increased by only 27 percent during this period, per capita social welfare expenditures increased about 4.8 fold. Expansion of the programs most relevant to children and youth kept pace with the other areas of social welfare. Federal outlays for "infants' and children's programs" increased 4.9 fold; Aid to Families with Dependent Children increased 4.5 fold; housing assistance increased 12.9 fold; and a variety of other programs aimed at improving the lives of children (food stamps, youth job programs, Medicaid, and so on) did not exist in 1960 but had very large expenditures in 1980.

If the creation of programs to assist the young is a measure of public concern, then the last several decades demonstrate an unparalleled commitment. According to a 1976 survey, there are now more than 260 programs administered by twenty different agencies of the federal government whose primary mission is to benefit children. These programs respond to almost every imaginable problem: recreation, drug and alcohol prevention and rehabilitation, job training and counseling, child abuse and neglect services, delinquency prevention and control, juvenile justice services, nutrition and public health services, pregnancy prevention and counseling, runaway assistance, group homes and sheltered workshops.

To be sure, there are standard criticisms of the various programs: too much attention is focused on treatment of problems and not enough on prevention; not all children with problems are reached; programs are poorly administered; programs are created piecemeal and no coherent policy exists; and funding for the programs is inadequate. Nevertheless, a great deal has been done with the intention of improving the social, physical, and economic well-being of children. The amount of money spent on children by the federal government, and the number of professionals serving the needs of children and youth, expanded at an unprecedented rate from 1960 to 1980. Further, money available to conduct research on the problems of children and youth grew rapidly, as reflected in the budgets of the National Institute for Child Health and Human Development and the Administration for Children, Youth, and Families.

Heading in the wrong direction

Thus far we have avoided the question of how American youth actually fared during the 1960s and 1970s. Our answer begins with statistics that measure changes in several significant areas: educational and intellectual performance; moral character; and physical

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Table III. Trends in Academic Achievement[a]

	1960	*1970*	*1980*	*% Change, 1960-1980*
SAT Score Averages for College-Bound High School Seniors				
Verbal	477	460	424	−11.1%
Math	498	480	466	−6.4%
Proportion of 18-Year-Olds Who Are High School Graduates	72.4%	77.1%	72.1%	−0.4%

[a] *Source: U.S. Statistical Abstracts, 1984* and *Digest of Educational Statistics: 1983-84.*

health. No one questions that high intellectual performance is preferred over low, or that lower mortality is better than higher. There is likewise little debate over whether such things as delinquency, drug and alcohol use, and unintended pregnancies are desirable for minors. Thus we proceed with an overview of the changes between 1960 and 1980, using the types of indicators available (recognizing that they are not as precise nor as exhaustive as one would desire).

Whether concern is focused on the future welfare of individuals or on the future position of the United States in a competitive world system, school performance and academic achievement of youth stand out as critical variables. Available evidence suggests that educational performance improved for many years until 1960 or so, and has declined ever since. Table III documents this disturbing trend. SAT scores for college-bound senior high school students declined steeply after 1960—both in the verbal and in the quantitative areas. This evidence of declining academic performance is consistent with a variety of other data on test scores, including the American College Testing Program, the National Assessment of Educational Progress, and the Iowa Test of Educational Development. Perhaps most surprising of all, given the improved education of parents and the vast increase in educational expenditures, is the slight *increase* in the high school drop-out rate after 1970. The proportion of eighteen-year-olds who were high school graduates declined 5 percent between 1970 and 1980 and was lower in 1980 than it was in 1960.

Four indicators of the extent to which adolescents in the U.S. are behaving in ways that deviate from generally accepted moral standards are presented in Tables IV through VI. Each indicator points to the same trend: Since 1960 there has been an increase in the level of deviant behavior. Consider criminal activity among adolescents (see Table IV). Obviously, much criminal behavior goes undetected and unreported, but official delinquency rates for youths

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Table IV. Trends in Delinquency and Illegitimate Births[a]

	1960	1970	1980	% Change, 1960-1980
Delinquency Rate of 10- to 17-Year-Olds (per 1,000)	20.1	32.3	46.4	130.8%
Birth Rate of Unmarried White Women Aged 15 to 19 (per 1,000)	6.6	10.9	15.9	140.9%

[a] *Source: U.S. Statistical Abstracts, 1984* and *Vital Statistics of the United States*, vol. I, 1980.

aged 10-17 provide a reasonable measure of change. The news is bad: Juvenile delinquency rates increased 130 percent between 1960 and 1980.

The news about adolescent use of alcohol and drugs is almost as disheartening (see Table V). Comparable data collected from national surveys are available for 1972 and 1979. During this seven-year interval there was a substantial increase in the proportion of young people who were using marijuana and alcohol. Another study by the National Institute on Drug Abuse reports that among high school seniors in 1980, 88 percent had used alcohol within the past twelve months, 49 percent had used marijuana, 21 percent had used non-prescribed stimulants, and 12 percent had used cocaine.

Then there are the data on adolescent sexual behavior. Much has been written about the increasing rate of sexual intercourse outside of marriage among younger adolescents in recent years. For example, national surveys of females aged 16-17 found that the proportion who reported having had sexual intercourse doubled between 1971 and 1979. While some argue that the increased sexual activity of teenagers is not necessarily bad, there is no doubt that the resulting rise in pregnancies and venereal disease have detrimental effects. These affect not only the young people involved, but also society at large—which bears much of the costs of these consequences of adolescent sexual activity. As shown in Table IV, between 1960 and 1980 the birth rate for white, unmarried women aged 15-19 increased 140 percent. Since the birth rates for married women fell over these

Table V. Drug and Alcohol Use[a]

	1972	1979	% Change, 1972-1979
Proportion of White 12- to 17-Year-Olds Currently Using Drugs or Alcohol			
Drugs	7.0%	16.7%	138.6%
Alcohol	24.0%	37.2%	56.2%

[a] *Source: U.S. Statistical Abstracts, 1984.*

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Table VI. Abortion[a]

	1973	1979	% Change, 1973-1979
Abortions per 1,000 (Abortions + Live Births), White Women Aged 15 to 19	280	444	58.6%

[a] *Source: U.S. Statistical Abstracts, 1984.*

two decades, the proportion of all children born to unwed teenage mothers increased even more rapidly.

Furthermore, to an increasing extent, pregnancies to teenagers are ending in abortion rather than in live births (see Table VI). For all women aged 15-19, the proportion of pregnancies terminated by abortion increased from 28 percent in 1973 (following the *Roe* v. *Wade* decision of the Supreme Court) to 44 percent in 1980. Thus, changes in the illegitimacy rate substantially underestimate the rise in pregnancies to unmarried adolescents. Meanwhile, the number of adolescents contracting syphilis, gonorrhea, genital herpes, and other venereal diseases has grown rapidly. Hence there was indeed a change in the sexual behavior of adolescents between 1960 and 1980, and the consequences of this change indicate increasing problems for American youth.

Finally, we can also look at the trends in adolescent mortality. For the U.S. population as a whole, the 1960s and 1970s saw a reduction in mortality rates. The age-adjusted death rate for the U.S. population declined by over 23 percent during these two decades. As a matter of fact, there was a decline in death rates for every age category except one: those aged 15-24. As shown in Table VII, for whites aged 15-19 the death rate in 1979 was 16 percent greater than it had been in 1960. The reason for the increase is not difficult to locate. Death rates from disease were falling, as they were for all other ages; but death rates due to violent causes were increasing dramatically. Death rates from motor vehicle accidents were up 42 percent; death rates from suicide were up 139 percent; and death rates from homicide were up 232 percent. The proportion of all deaths of 15- to 19-year-olds that were due to these three violent causes rose from 47 percent in 1960 to 65 percent in 1979. As with each of the other indicators of well-being, the mortality statistics show disturbing trends among American adolescents.

Whose responsibility?

How are we to interpret these disquieting statistics? It has become rather popular in recent years to dismiss concern over the state of

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Table VII. Death Rates by Cause Per 100,000 Whites Aged 15 to 19[a]

Cause of Death	*1960*	*1970*	*1980*	*% Change, 1960-1980*
Motor Accidents	35.5	46.1	50.4	42.0%
Homicide	2.2	3.6	7.3	231.8%
Suicide	3.8	6.2	9.1	139.5%
All other causes	46.4	47.2	35.3	−23.9%
All causes, total	87.9	103.1	102.1	16.2%

[a] *Source: Vital Statistics of the United States*, vol. II, 1963, 1970, 1980.

adolescents by noting the long history of alarmist statements. Quotations from past centuries are offered as evidence of perennial anxiety over the younger generation. Nevertheless, unfounded expressions of alarm in the past do not dictate that we should view recent trends with equanimity. Indeed, the indicators we have examined (on delinquency, school performance, drug and alcohol use, adolescent pregnancy, and various types of self-destructive behavior) point to a uniform and serious decline in the well-being of adolescents between 1960 and 1980. Whether such trends will continue is debatable, but the evidence clearly establishes that these two decades were not good ones for young people. There may be some good news somewhere, but we could not locate it in any of the available statistics.

These statistics present a troubling question for many social scientists who have confidently advised policy makers on how to improve the lives of young people. The changes they have proposed to improve the lives of the young have, to varying degrees, generally ocurred: in families (increased income, increased education of parents, decreased family size); in schools (increased per capita expenditure, increased credentials of teachers, decreased classroom size, increased resource personnel); in federal social programs (the Great Society itself, as well as the myriad programs aimed specifically at the young). In addition to the ostensibly beneficial changes in family structure, the per capita material resources available to adolescents in 1980 vastly exceeded those available in 1960. But spending more money to improve environments of children has not brought about an improvement in their well-being. It is now evident that the well-being of adolescents declined precipitously over these two decades, and that the proportion of adolescents behaving in ways destructive to themselves and to others grew ever larger. How do we explain these deteriorating outcomes during a period of ostensible environmental improvement?

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It is time to question one of the most fundamental arguments made in recent years by social scientists and child advocates—the argument that families and individuals are not responsible for the problems experienced by children. The position taken by Kenneth Keniston in 1977 in *All Our Children* has been repeated many times:

> There is nothing to be gained by blaming ourselves and other individuals for family changes. We need to look instead to the broader economic and social forces that shape the experience of children and parents. Parents are not abdicating—they are being dethroned, by forces they cannot influence, much less control.

We believe that this preoccupation with removing responsibility for negative outcomes from individuals has diverted attention from the more important determinants of child and youth well-being. In particular, it has diverted attention from what may be the most critical determinant of all: the bond between child and parent.

There are several reasons why social scientists may prefer to emphasize social structures in their analyses. It is very difficult to define, and even more difficult to measure, the quality of relationships. It is even more difficult to design policies for improving the relationships between individuals in an intimate environment. By contrast, measures of income inequality, or family size, or school expenditures are rather straightforward; and policies designed to transfer more goods and services to children can be conducted with relative ease. But if the problems of American youth stem from the state of parent-child relationships, those who propose to improve the situation by designing programs which bypass the family are embarking on a futile quest. Perhaps we are faced with a situation in which there is no change in public policy that can have much effect, or at least it seems that the changes needed lie in an entirely different direction than those generally advocated.

Do we have empirical evidence of a deterioration in the quantity and quality of parent-child relationships after 1960? This is difficult to answer, and the evidence is probably not conclusive. Nevertheless, we suggest that there has been a declining commitment of parents to their children over the past several decades. Two types of evidence are available: the direct responses of adults to questions regarding their personal values and commitments; and rates of divorce and female participation in the labor force.

Much has been written about the growing concern of American adults for their personal self-fulfillment and self-actualization. Some writers praise this trend while others deplore it, but few question that a shift toward greater attention to personal development occurred in

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the 1960s and 1970s. Because of their immaturity and dependency, children may not fare well in an environment where self-sacrificing behavior is out of favor. In *The Inner American*, Joseph Veroff, Elizabeth Douvan, and Richard Kulka examine and interpret changes between 1957 and 1976 in responses of adult men and women to a large number of questions regarding their personal lives. Regarding the parental role, they report that "a more negative orientation toward parenthood developed, a general questioning of whether total involvement with children was the route to happiness."

In addition, they found:

> a . . . dramatic change for women is the markedly decreased satisfaction with the housewife role. This change in focus from the housewife role to the job role is another instance of increased attention to self-fulfillment that has pervaded psychological changes in the current generation.

Further evidence of the changing commitment of parents to children comes from *New Rules*, Daniel Yankelovich's 1981 study of changing attitudes in the 1970s. He concludes that "today's parents expect to make fewer sacrifices for their children than in the past, but they also demand less from their offspring in the form of future obligations than their parents demanded." In support of this conclusion he cites several survey results:

> Nearly two thirds of all American parents (63 percent) reject the idea that parents should stay together for the children's sake, even if the partners are unhappy with each other. A similar majority (66 percent) feel that "parents should be free to live their own lives even if it means spending less time with their children," and an almost equal number of parents (63 percent) endorse the view that they have the right to live well now and spend what they have earned, "even if it means leaving less to their children."

As men and women increase their commitment to their own self-fulfillment, they necessarily reduce their commitment to sacrificing personal pursuits for their children's welfare. It is not surprising that parents express more anxiety about their performance as parents; but anxiety is not necessarily translated into a greater investment in parenting. There has developed a standard rhetoric which attempts to justify the changes that have occurred (such as "parents cannot really meet the needs of their children until they have first met their own needs"). Regardless of whether or not such rationalizations have merit, it is clear that parents have become more aware of the costs of raising children and are less willing to make unconditional commitments to their children. In other words, it is not that parents have less insight into children's needs, or that they have

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fewer resources to meet those needs; it is that they are choosing to respond differently to children.

Whither parenting?

The other evidence for the declining commitment of parents has to do with behavior. The increases in female labor force participation and divorce since 1960 are well known, but it is worth emphasizing the immediate effects of these changes on children. The proportion of mothers with children under age eighteen who were in the labor force has doubled (from 28 percent in 1960 to 57 percent in 1980). During this same period, the annual proportion of children under eighteen who experienced the divorce of their parents increased 140 percent (from 7.2 to 17.3 per 1,000 children). Using 1980 rates, it is estimated that about 40 percent of all white children will experience a disruption of their parents' marriage by the time they are sixteen years old. Adding those who are born to an unmarried mother, nearly half of all white children will live in a single-parent family for some portion of their childhood years.

It would be overly reductive to argue that the influx of mothers into the labor force is the direct cause of the declining well-being of adolescents. But it is clear that a decreasing proportion of women consider full-time homemaking and mothering to be a worthwhile activity. And as mothers increasingly work outside of the home, the interaction between mother and child, as well as parental supervision, inevitably declines. This gap in maternal care is filled with a variety of substitutes, such as day care, sitters, neighbors, before- and after-school programs, and television. Given the physical and emotional energy consumed by work and the household chores that remain to be done in the fewer hours spent at home, the potential "quality time" of mothers with their children is limited. Meanwhile, empirical evidence does not show that fathers are spending more time at home. From the perspective of the child, it appears that parents are becoming available at times convenient to the parents, not at times when the child has the most need for attention.

The effects of divorce upon children are also hotly debated, although attempts to argue that divorce is beneficial to a child are rather feeble. Three consequences of divorce are especially detrimental to the overall well-being of the child. First, all studies of the impact of divorce upon children report that it creates emotional upheaval. Simply put, having one's parents divorce is an unpleasant childhood experience with lingering emotional consequences. Second, in most

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cases divorce results in a decline in the child's family income. Third, with few exceptions, divorce leads to a sharp decline in the time shared between a child and the non-custodial parent (in nine out of ten cases, the father). A nationally representative sample of children involved in divorce found that a majority had seen their non-custodial parent rarely or not at all in the past year. Only one in six children living with their mothers after a divorce maintained weekly contact with their father. Despite these fairly obvious consequences, fewer and fewer American adults find them sufficiently compelling to avoid divorce. This trend is consistent with the other evidence which suggests a declining commitment of parents to their children.

Urie Bronfenbrenner, a psychologist at Cornell and someone who can express ideas without unnecessary jargon, writes that the essential prerequisite for healthy human development is that "somebody has to be crazy about the kid." We suggest that it is an erosion of the bond between parent and child—one characterized by parental commitment and willingness to sacrifice self-interest—that is a significant cause of the declining well-being of adolescents after 1960. Many will of course disagree with this conclusion and with its implication that individuals are in fact partially responsible for the deleterious changes of the past two decades. They can appeal to explanations which stress the structural sources of social problems and absolve individuals from responsibility. However, those who argue that the best way to improve the lives of children and youth is to improve their physical and material environments are challenged to answer the question of why adolescents were doing less well in 1980 than they were in 1960.

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Why journalism schools?

STEPHEN WHITE

ONE CONCLUSION can be safely drawn at the outset: Pursuing a journalism curriculum in the college of choice is the best of all procedures for one who seeks a career in journalism. That having been said, the rest is perplexity.

A good deal of that perplexity is encapsulated in two sentences. Both are to be found in literature from a university of no small eminence, issued by its College of Journalism as part of its efforts to attract students. "Journalism is a profession," the first sentence reads, "and academic preparation for it is similar in many ways to that offered by schools of law, medicine and education." The other, speaking also of the charms of a journalistic career, asserts (with some syntactical confusion) that "It includes advertising, public relations, broadcasting and magazines." The first of the two statements is mostly preposterous. The second is in the mode of Lewis Carroll's Humpty-Dumpty, and in that light might even be considered an understatement, for the institution that provides a home for journalism may also offer degrees in "library science" and "speech" and even something called "interpersonal communication."

At another university, the same general kind of claim is made even more bluntly: "The term 'journalism' . . . is now used synonymously with such areas as advertising, public relations . . ." (Again

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the syntax is strange.) Clearly, it may be advisable to scrutinize with some care the directory of course offerings in any given college of journalism before making judgments on the nature of its curriculum. Keeping that in mind, it can be asserted that something known as "journalism education" is offered in a quite large number of institutions of higher education, not all of them immediately recognizable as such. In most it is a major within a liberal arts curriculum and as formless as most liberal arts programs. But there is an accrediting institution intended to authenticate a journalism curriculum, and there are accredited programs in eighty-five colleges and universities. Additional institutions, which for one reason or another have chosen not to seek accreditation, provide serious programs and are members of the Association for Education in Journalism and Mass Communications (AEJMC). Not all report in faithfully, but the statistics gathered annually by the AEJMC usually cover some 200, among which are all the major programs save that of Stanford University. This article will deal with that somewhat indeterminate group.

The degree offered is preponderantly an undergraduate degree. More exactly, in 1984 180 colleges and universities responding to a survey awarded 17,221 bachelor's degrees in "mass communications," 1,611 master's degrees, and a mere sixty-six doctoral degrees. It might appear that the programs bear an affinity to engineering programs rather than to medicine or law: Those too are preponderantly undergraduate and the few Ph.D.'s are likely to remain within higher education. But the journalism programs have a quite different distinction that may be all their own.

As in most college programs, there is the matter of "distribution." The undergraduate contemplating a career in engineering or science or *belles-lettres* is obliged, under threat, to study something else from time to time, so that he may be a broadly-cultured person and a glory to his alma mater. Indeed, in a great many institutions courses are expressly designed to meet distribution requirements, and, to sweeten things for the reluctant student, may even implicitly guarantee him a B or better for his academic record.

Journalism programs, however, take a quite different course. The criteria for accreditation include a requirement that the student's program be three-fourths distribution and only one-fourth journalism. That criterion is fairly well honored. It is not unusual for a student in a liberal arts curriculum to take three-fourths of his courses outside his area of concentration, but it is pretty much a matter of choice. If he is studying journalism in an accredited school, he

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may need express permission from his department to add a journalism course that will take him beyond 25 percent.

That such a constraint is uncommon does not necessarily mean that it is unsound. The word "journalistic" has its pejorative overtones. It may be used to imply that the practitioner under consideration may know something about a great many things but does not know very much about anything at all. Certainly that was once something of a requirement for a general-assignment newspaperman, and may fairly be said to characterize most of them even in these latter days. But this opens up a large subject, and requires further consideration; it is mentioned here only to call into question the status of journalism as a profession, as the brochure insists.

The word "journalism" itself has not yet been explained. The Oxford English Dictionary, entitled to speak magisterially on such matters, defines a journalist as "one who earns his living by editing or writing for a public journal or journals," and defines "journalism" in terms of "journalist." Those definitions are clearly outdated, but a minor emendation would be sufficient to account for radio and television. To include "advertising" and "public relations," however, much less to strain for "interpersonal communication," would call for a complete reworking. That, too, is no sin: Words are reworked every day or every week. The question, rather, is whether it makes sense.

A large number of the schools under scrutiny—perhaps by now a majority—have acknowledged the nature of their own activities more accurately by naming or renaming themselves schools or departments or colleges of "Journalism and Mass Communications." Given the nature of their offerings, it would appear even fairer to be content with simply "Mass Communications," and many do so, but there are still those for whom "journalism" confers some kind of glow, and the word not only remains at most institutions but holds pride of place.

Over the field as a whole, only a small proportion of the students contemplate a career in any form of journalism as it is defined or at least implied in the OED. Here, problems of nomenclature muddy the statistics: They included until quite recently a category called "Radio/Television" which was later divided into two: "Radio/Television" and "Broadcast News." The other category of interest here is identified as "News/Editorial," which was once called "print journalism" but apparently can be so denominated no longer if the act of writing "New, Improved Kleano!!!" is also journalism. A reasonable estimate might be that journalism, as that word is employed

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outside the deans' offices, commands the attention of some 25 percent of the students seeking degrees at the accredited schools. (Public relations, advertising, the management of communications enterprises, and education account for the rest.)

Setting aside the OED for the moment, there is also a description, rather than a definition, of "journalism" that might be introduced for purposes of differentiation. Over the last several decades, in this country and a few others, the mission of the journalistic enterprise at its best has been to gather and disseminate information. (That was not what animated the First Amendment to the Constitution, dealing with the right to express opinion.) The dissemination of information was never the sole activity of journalism, which has been a vehicle for the expression of opinion and which has sought also to entertain and to instruct and to record. Nonetheless, the training of the journalist, however it was conducted, was a training in the gathering and dissemination of information.

The purpose of public relations is generally to mislead, and of advertising, more often than not, to deceive. With exceptions, some of them most honorable, there has been a latent or an expressed hostility between what the schools call "news/editorial" and the practitioners of public relations, and an even greater hostility toward advertising, which pays the salaries of those who gather or edit the news. It is odd enough to gather those diverse activities under the same roof; it is not sensible to lump them all under "journalism," although any respectable sophist could make a case.

What is called "broadcast journalism" in the schools is quite something else again, and by no means simple. It has a kinship with print journalism, and certainly it has affected print journalism to its very roots. Broadcast journalism must certainly be entitled to consideration in any treatment of journalism as a whole.

This article, then, rejects the nomenclature of the schools; it deals with the education of those who will produce newspapers and magazines and the like, and with those who look for journalistic careers in radio and television, and leaves it at that—which is quite enough.

It assumes also, as a point of departure, a kinship between print and broadcast journalism. Historically, there was a very close kinship when radio began broadcasting the news. The two now are little more than distant cousins, and as the practices of print journalism and broadcast journalism diverge the relation becomes more distant still. But all that is for later consideration, after some ground has been cleared.

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What the journalist must know

The purpose of professional education can be stated best in the form of a tautology: It is an education that qualifies the student to practice his profession. The graduate is presumed, and in some instances formally declared, to be capable of doing proficiently what he is supposed to be doing, whether that be drawing up a contract, implanting an artificial heart, or building a bridge. The question immediately arises: Just what is it that a journalist is supposed to do?

In most instances, at the beginning of his career he will be called upon to find out what has happened, somewhere and somehow to someone or something, and to prepare a lucid narration of what he has found. At a slightly higher level, he will find himself conveying the judgments of others upon what has happened; if he is clever and confident enough he will insinuate certain of his own judgments as well, which his editor may not notice, or may be prepared to tolerate. At a still higher level, his product will be identified in some fashion as proprietary—he is now a columnist or a commentator, and the judgments he expresses are clearly to be distinguished from "the news."

Taken together, these duties demand three quite different kinds of activity. One calls upon the journalist to inform himself; the second calls upon him to inform others; the third calls upon him to establish an order of importance. It is not necessarily the case that the aspiring journalist can do all three with equally high skill: If he can, he becomes Walter Lippmann or Edward R. Murrow, and he enters the pantheon. If he is highly skilled at gathering the news, he becomes a foreign correspondent or gets to stand in front of the White House; if he is highly skilled at communicating, a rewrite man or a copy editor or a tape editor; if he has sharp news judgment, an editor or producer.

That is an extremely rough categorization, and does not do justice to the obligations of the experienced journalist and the manner in which they are met. But this article deals not with the practice of journalism but with journalism education, which can prepare the student only to embark on a career. He himself must make the career, which is another matter altogether.

The link of all this to a formal education is subsumed under the Rule of Irretrievable Loss, as formulated by Professor Dick Netzer of New York University. That rule asserts that for all but the most accomplished autodidacts, some things will be learned in the setting of formal education or will not be learned at all, perhaps because

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they require an intensity of attention, or constant guidance, or special equipment, or are remote from ordinary experience.

The application of Netzer's Rule to journalism education is straightforward. Postulate a young man or woman who aspires to a career in journalism. If he is to be a competent and adequately rewarded journalist, he must certainly learn some things, formally or informally, within an institution of higher education or elsewhere. But just what is it he must learn in the formal setting of a school of journalism?

There is, to begin with, no strong theoretical basis underlying the practice of journalism as biology and biochemistry and biophysics underlie medicine, or as physics underlies electrical engineering. Neither is there anything commensurate with the maze of legal history and legislative promulgation that the lawyer must penetrate.

The tools employed by a journalist are commonplace. The pencil and pad hold no mysteries of any kind. The typewriter and the word processor are intricate instruments indeed, but the intricacy lies in their construction and not their operation: A child of ten can learn in half a dozen hours to operate either with all the proficiency required of a journalist. The task of what is called a photo-journalist is in that narrow sense equally undemanding: It has been characterized as "f/16 and be there." And the broadcast journalist, in all but extreme instances, stands before the camera or the microphone quite ignorant of their workings.

Much more might be written along the same lines. But the matter becomes a good deal clearer when editors are asked what they would most ardently wish to find in the neophyte whom the publisher—or the editor himself—has hired. Foremost is the ability to write unadorned, lucid, expository English prose, and that is a matter that must occupy a place of its own in this report. After that comes a predominant answer: The neophyte must have a command of the history of his state and city, and a familiarity with its governments and the manner in which they operate. There are other desiderata mentioned often: enough economics to make them competent reporters and analysts of business and financial news; a science background sufficient for coverage of such science-related subjects as environmental affairs, the mysteries of the national defense, or certain aspects of medicine. All those bodies of knowledge fall under Netzer's Rule: They are likely to be learned in some depth within a setting of formal education, or not at all. And they have something else in common: It would trivialize them to teach them in the context of journalism. They are taught as bodies of knowledge possessing their own integrity and their own purpose.

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Now the accreditation criterion calling for no more than 25 percent in journalism courses begins to make a certain kind of sense. So far as organized knowledge is concerned—and organized knowledge is by no means the whole story, or even very much of it—the aspirant can benefit if he can honestly manifest a decent acquaintance with those of the natural and behavioral sciences of current importance to journalism, and certain of the humanities: He has in him at the very outset of his career some of the minor attributes of a useful general assignment reporter. Most schools recognize that to be the case by stipulating in one fashion or another the sorts of courses or even the specific courses the student must include in his required 75 percent of distribution, which is not an uncommon feature of distribution requirements wherever they may be found.

If the student chances to strike when the iron is hot, he can benefit even more if he has a secondary major in one of those areas that provide him with some claim to relative profundity in one field or another: He may become at once an environmental reporter or find a place on the financial page, if such happens to be needed at the moment.

The requirement that 75 percent of the coursework be taken outside the journalism department is therefore sensible enough. It now becomes necessary to justify the 25 percent that is taken within the department, which is more difficult.

Demand up, skills down

One matter, simple enough, can be disposed of at once, although it says at least as much about the practice of journalism as about journalism education.

Nearly all schools of journalism require of students in news/editorial and broadcast journalism satisfactory performance in a course dealing with the law of libel. The course is at times offered by a member of the faculty of the school of journalism (however named) and elsewhere by a member of the law faculty, and deals with libel in the context of journalism.

In earlier days, no such knowledge was required by the ordinary working journalist. He was likely to be aware, like any reasonably educated person, that a printed attribution of serious crime or misbehavior, if false, might have serious consequences for the attributor and whoever it was who printed it. That, and a touching faith in the mystic powers of the word "alleged," was likely to be the extent of his knowledge. Editors had a bit more responsibility, and were instructed on the larger publications to call the company's law

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firm if they had doubts. It was assumed, with considerable justification, that they would be doubtful when doubt was appropriate, and generally they were. Beyond that, most legitimate suits were discouraged when the aggrieved person was either advised of the horrors that face a person who sues for libel, or bought off with a small payment.

The secular growth of litigiousness, the abundance of lawyers, and above all the willingness of juries to award huge judgments, have made that casual attitude dangerous. The lowliest reporter is now expected to smell out the prospect of a libel action in anything he may learn, and to let his superiors know of his concerns. The journalism schools, quite properly, consider it their obligation to prepare the budding journalist for that duty, and they do. Part of the service thus performed has led to the gradual attrition in the use of the word "alleged" in the print media, although it survives on the air.

The largest single effort of the journalism curriculum, for the broadcast as well as the print track, lies in the educational process that is expected to instruct the student in his employment of the language. The journalists who write for the print or broadcast media, as well as those who read what has been written or must improvise, are expected to use English properly, tastefully, and above all lucidly. The curriculum of the journalism school honors those principles with a battery of courses in expository prose and with what are somewhat pretentiously called "writing laboratories," in which people are expected to accumulate information of one sort or another, write quietly, and read aloud.

If there is any matter upon which all deans of journalism schools agree, it lies in the forceful assertion that all students arrive at journalism school unable to write the English language. If there is one single verity upon which all working editors and publishers are agreed, it is that all students depart from journalism school *still* unable to write the English language. These two assertions leave four years of dedicated instruction to be accounted for.

The question is larger than any that are posed by journalism education of itself; it is raised in all areas of higher education, and in secondary education as well. In that fuller context, there is little place, in a report on the education of journalists, for a full consideration of the problem and its origins. A few elements of the problem might, however, be found relevant.

Over the past several decades, the demand within the labor market for those who can write lucid and graceful expository prose

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has been growing year by year. Perhaps the most frequently quoted remark that bears on the subject was made a good many years back by Gordon Thompson, who maintained that "half the working population of America is now employed in pushing pieces of paper about." A good deal of that paper contains English prose. If it is not lucid it is not information; if it is not graceful it is not readable.

By and large the journalist has never been richly rewarded for his work. He was led to embrace journalism by a great many factors, some of them delusions. One, however, was not that journalism provided a means of alleviating writer's itch. A very large proportion of journalists had entered secondary school already capable of writing adequate English prose, and to some degree enjoyed doing so. The prospect of being paid for writing was alluring. Many or most never bothered to proceed to further education; many of those who did either dropped out or devoted most of their time and all their best efforts to the college newspaper or magazine.

There was, in short, a process of self-selection that brought some of the more competent writers to journalism. The process is considerably weakened today, and therein does lie a link between journalism on the one hand and public relations and advertising on the other, for the demand of those latter fields for competent writers diminished the pool available to journalism. But the writer will also find opportunities in a dozen other fields, many of which demand no extensive academic preparation: in the swollen staffs of federal and state legislators, as "assistants" to chief executive officers, in the entertainment industries—and, indeed, in journalism education itself.

Employment in journalism has always followed a pattern closer to that of professional athletics than to business or trade. There is an initial self-selection process, followed by a process that carries the best journalists to the larger and richer newspapers and magazines. The process works as well today as ever. An open-minded observer will most probably report that the quality of writing in the larger and richer papers is much what it used to be, and perhaps even better. It may be something more of a struggle for the copy editors to make it so, but nonetheless, it happens.

Television is another matter entirely, largely because the language of television, aside from the language of pictures, is the spoken language, and words written to be spoken on the air must emulate the spoken language. That language does not, and probably must not, obey conventional grammatical rules; no spoken language ever has. As many a writer will testify, it is now impossible to get a phrase

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such as "between him and me" on television. Vocabulary must change as well—"momentarily" sounds better than "soon" and replaces it. No great damage is done, except to a handful of the ultra-sensitive.

None of this can be laid at the doors of the journalism schools. They do their best, in courses that attempt to drive home the elements of the written language and in "laboratories" where students are obliged to write and to submit the product for critical appraisal. Whether the methods in use are the best methods might be made a subject of debate, but somewhat irrelevant debate. They are "state-of-the-art," and it is all that can be reasonably expected.

In all likelihood much of what are called writing skills is innate, and the rest (to quote Professor P.J.D. Coles slightly out of context) the result of "parental example and pressure, and a quiet study room at home." That environment, too, is beyond the power of the journalism school to provide.

Vocational market, professional school

The schools also provide opportunities for the journalism students to simulate what goes on in a "real-world" newspaper, or magazine, or broadcast station. Where a department of journalism exists, it is quite likely to be the home of the college or university newspaper, and the journalism students turn it out; there may be magazines as well. Students in the broadcast track have comparable opportunities; at worst they run the campus FM stations. At some institutions the investment in broadcast equipment is staggering and the accomplishments extend beyond the universities, as the word "broadcast" suggests: The department's television and radio stations are quite likely to be affiliates of the public television and public radio networks. At the University of Florida at Gainesville, the College of Journalism and Communications operates three satellite ground stations, a twenty-four-hour cable newspaper, an "electronic newspaper," a television station, and three radio stations, all of which combined must bombard the citizens of Gainesville with an unremitting barrage of news and may even be hazardous to their health.

All in all, and taking account of the fact that students must spend a good deal of their time and effort elsewhere in the college, this a healthy dose of journalism education. The rest of the journalism curriculum, however, is somewhat less encouraging.

The problem is that there is little more to be done that will contribute to progress in the broad field of journalism and provides at

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the same time the exercise of the intellect that is presumed to be at the heart of professional educaton. The schools are adamant: Journalism is a profession. Something must be found to justify the claim.

The young man or woman who responds to the urge to become a journalist is not likely to have a taste for the profound. He is curious, but that curiosity is associated with restlessness, and must be constantly stimulated by new experiences and new satisfactions: Like a bee, he finds something in all the flowers, and is intent upon gathering a little from each. And finally, he possesses an urge to share his bits of knowledge with others, in writing or otherwise. An editor who chose a relatively inexperienced reporter for an extremely important assignment and was asked to explain his choice replied: "He is shrewd and facile." Shrewdness and facility are what the journalist most requires. He must begin with some, and accumulate more as he proceeds; in the end he is like a pianist who learns to play by playing the piano. Intellectually, journalism is generally a trivial pursuit. None of this denigrates either piano playing or journalism, except among those who are themselves relentlessly intellectual.

That all suggests that journalism is not a profession, and that there is no place for schools that insist it is. Many of the best universities take exactly that view. The land-grant schools, which is to say the state colleges and universities, find it difficult to take that view: They were created in part to provide vocational education as well as professional education, and do so. Legislatures would not have it otherwise.

All the same, they are universities, and the dean of journalism is impelled to stand tall among his colleagues; he must on no account lay himself open to the suggestion that he runs a trade school. The emphasis upon writing is not nearly enough; the English department scorns expository prose and has its eyes fixed on close analyses of *Finnegans Wake*. There is nothing at all within journalism to match *Finnegans Wake* as intellectual fodder; if it is to be found at all it will lie outside journalism.

Considering for the moment print journalism alone, the easiest recourse is to teach not journalism, but *about* journalism: The student reads large books about the history of journalism and about the organizational structure of journalistic enterprises, none of which will have any relevance to his later career. He will probably find that a course in journalistic ethics is required: It turns out to be largely pieties, and will certainly not deal with ethics as a subject in its own right. That will occupy him for two terms; there remains time to be filled.

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That time is given over to the flabbiest of all the subjects taught in the liberal arts college: the social sciences. It can scarcely be denied that there are sociological aspects of journalism; indeed, by definition there are sociological aspects of every human activity that can be named. But they are also without doubt the subjects in which it is most difficult to say anything sensible. That is not to suggest that sociologists of real substance cannot be found; only that their subjects are extremely difficult to master. Willy-nilly, "Sociology for Journalists" and a bit of "Psychology for Journalists"—these are generic titles, and as far as I know there may or may not be courses so named—are taught at a level far from adequate for the real demands of those disciplines, although the language is satisfactorily arcane and a certain quantity of mildly sophisticated statistical methods may be employed.

Hence courses that go by the names of "Public Opinion and Editorial Analysis," "Community Journalism," "Public Opinion Theory and Research," "Applied Research in Mass Communication," "Communication Theory," and the like. The titles roll well off the tongue. An examination of the accompanying texts is not encouraging.

The students are required to perform something called research. Most of what is performed in the undergraduate college is forgotten as quickly as it is graded, but its general nature can be seen in the published abstracts of master's degree and doctoral theses. Those which are historical are at least within the tradition of journalism, and those which deal with psychology are innocuous enough. Those in sociology are almost uniformly banal or involve the employment of moderately sharp statistical tools on small, unreliable samples.

Thus, for example, an item of academic research which purports to show that female journalists drink a lot, but not as much as male journalists, and that male editors drink more than male reporters, but the opposite is true among females. Another thesis reports that "a topical analysis was done of news stories and editorials . . . during a sixty-day period" which showed "some overlap in news story and editorial topics." Still another, based on questionnaires sent to 150 randomly selected scientists, showed that 38 percent of them talked to journalists because they thought they should. Another reports on "accuracy in natural resource management articles," and reaches the conclusion that it would be better if reporters knew more about natural research management and resource management personnel knew more about reporting. The doctoral theses are of course written in the jargon of the sociologist, impenetrable to all but those such. One of them concludes, reluctantly but honorably

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that, "The results of the study do not tend to support the research hypotheses. However, the results would tend to support the existence of a curvilinear relationship between opinion change, cognitive complexity, credibility and interactional effects on opinion change between perceived source of credibility, complexity and dogmatism."

Among those who plan to go on to doctoral degrees, all this is necessary, since the schools of journalism, although they do not absolutely require a Ph.D. for faculty appointment, do not esteem or unduly reward those who lack one. Its relevance to a career in journalism is exactly nil. The working journalist's concern is whether his own editor is drunk, not how many editors are drunk.

Ink vs. airwaves

Journalism, whether in print or broadcast, is in this country a business enterprise of one sort or another supported primarily by advertising revenues. There are exceptions, but they are insignificant in relation to journalism as a whole. The size of those revenues in any given instance is directly related to the size of the audience that is reached. In that respect, print and broadcast journalism do not differ. The consequences for those two different categories of media, however, are different indeed.

The fundamental distinction lies in the manner of their existence. A broadcast message exists in time, a printed message in space. The time available for the broadcast message is quite rigorously twenty-four hours, each time the Earth completes a single rotation, and mankind's habits make many of those hours infertile. The space available for a printed message is by no means infinite, but there is a very great deal of it. The time of the broadcaster's audience is limited exactly as that of the broadcaster himself and for the most part coincides with it; there is no corresponding constraint affecting the reader and what he reads.

The consequence is that for the broadcaster seeking to maximize income—all broadcasters—the matter of opportunity cost is paramount. To a certain degree, for the broadcaster to settle during any hour of the day for an audience smaller than the largest audience he could reasonably reach costs him money. That statement, of course, must be qualified: Any broadcaster would be happy indeed if he could convince advertising agencies that his small audience is made up exclusively of those few who are extravagantly wealthy and who spend money like drunken sailors. Then, too, he must consider loss-leaders, which among other things create some kind of prestige. But

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overall, he is obliged to maximize his audience unless he is by nature a philanthropist. This signifies, in another connection, that he has only one major market for his wares, and accordingly makes all television networks identical, and all television stations also more or less identical. (Radio has long since been squeezed out of the mass market.)

The publisher lies under no such savage constraint. He, too, must maximize his audience. He does so by offering a wide variety of messages, well aware that the reader who decides to skip will be likely to turn to another. As his total audience increases in size, he calculates incremental costs against incremental revenues, and adds pages. On the Saturday preceding Labor Day or the week after Christmas he requires no calculation; he simply shrinks his paper or his magazine. He also selects a market position, as his judgment may dictate.

Everything in television is expensive. Televised journalism is expensive, although not nearly as expensive as entertainment; it is expensive enough so that over all the earlier years of television it cost the network money out of pocket, without regard to a mammoth opportunity cost. It is not unreasonable to suggest that William Paley kept it alive as a matter of personal pride. That state of affairs could not last. Local television converted its news programs to a large degree into entertainment programs; network television for the most part maintained its early evening newscasts relatively pure but diluted the rest and more or less abandoned the serious documentary. Broadcast journalism survives, but pretty much as a relic.

In the schools of journalism, the curriculum of the putative broadcast journalist is not radically different from that of the putative print journalist. There is the same emphasis on writing skills, and although nomenclatures vary the writing lab gives way in effect to a broadcast lab. There are other changes arising out of the fact that the print reporter is not responsible for actually printing the news, while the television reporter may indeed be involved in the telecast, and the complexity of television leaves less time free within the curriculum for sociological research and the like.

What is being taught, however, is a communication mode which is essentially an entertainment mode. The prevailing mode of television is and must be the mode of entertainment even when the purpose is purely journalistic. The important story must give way to the story that makes for eye-catching tape; appearances must catch the eye; there must be a prevailing tone of heartiness or, alternatively,

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of deep intensity; the reporter must be part friend, part performer. The audience, in short, must be caught and held, and except when the story is inherently sensational or bizarre, story alone cannot be depended upon to do the trick.

There is also a difference in the expectations of the students and their own perception of the career on which they propose to embark. For one thing, the pecuniary possibilities are unlimited, or seem so: A million dollars a year for a network anchor man is not at all out of the question. The reality, of course, is almost always something else. No one who pursues the career he has laid out at a school of mass communications is likely to be as badly paid as a television journalist. Jobs at the major networks are reasonably well paid, but most of the jobs are at small local stations, where, as reported by the Radio-Television News Directors Association, 43 percent of the reporters earned between $150 and $239 a week, and news anchors between $300 and $400. Even there, the largest salaries may go to the weather man, who is almost invariably employed for his comedic talents or her physical endowments, and to the sports announcer, who will not necessarily pretend to any journalistic skills and is not likely to have emerged from a school of journalism.

None of this is to be held against the undergraduate school of journalism; it does what must be done, to the best of its ability. Once again, it is training for a vocation, and there is nothing shameful in that. What it teaches is journalism—people *en masse* do indeed get their news from television. It is not by any stretch of the imagination a variant of print journalism; on the whole it does not attract the same kind of people. There is no reason that it should.

In passing, it might be mentioned that the broadcast track has still another dimension that is not truly journalistic. A surprisingly sizeable group within the student body intend to find their way to a small radio station and either work there or in one way or another make it their own. They expect to earn little money and at best a small local notoriety; they expect also to have a good deal of fun, and even may.

Pass GO, collect $200

Since journalism education is predominantly undergraduate, I have dealt almost entirely with the undergraduate curriculum. Few students move out of the undergraduate course to move forward toward a higher degree in journalism, and most of those contemplate a career teaching journalism.

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Students may and do enter a master's degree program in journalism after earning an undergraduate degree in liberal arts or another field. In effect this is merely a rearrangement of the usual procedure: Instead of 25 percent journalism and 75 percent elsewhere for four years, the student enjoys the benefit of 100 percent elsewhere for four years and 100 percent journalism during a fifth year. The student body is more mature, and more is expected of them. Columbia University offers only the advanced degrees; it is certainly among the best journalism schools in the country, and possibly *the* best, with a far more intensive journalism curriculum than one is likely to find elsewhere. The doctoral degree is a teaching degree, and is much more likely to be a degree in applied sociology than in journalism *per se*.

There is at least one area in which the schools of journalism have been unqualified successes. The figures appear to show that somewhere in the neighborhood of 85 percent of all entry jobs in journalism are filled by graduates of the schools of journalism. The figure is startling, in view of the fact that in journalism, the sons and daughters of journalists have a fast inside track—faster, indeed, than is the comparable case in most other occupations.

(At this point it might be noted, for what it is worth, that enrollment in schools of journalism as a whole has in recent years become predominantly female and begun to approach two-thirds female. Print journalism is roughly evenly distributed between the sexes, but women predominate heavily in broadcast journalism and by better than four to one in public relations. Total enrollment, until quite recently, was increasing at a rate of 14 percent a year, which signified a doubling each six years or so; it seems to have stabilized in the last few years at about 80,000.)

The relative success of the journalism graduates in the employment market is not clearly attributable to the quality of the education they have received. Journalism is not an academic occupation, and an academic record says very little to the prospective employer. Editors insist that applicants do not write well enough to meet the editors' requirements, and shrewdness does not show on records. In general, an editor is likely to believe he is hiring a pig in a poke; he does so hoping that the applicant will learn quickly and turn out to be a willing worker. Some do, others fail and of their own accord turn to other occupations; a few must be fired.

Applicants out of journalism school are somewhat easier on the hirer. They bring with them clippings of one sort or another, and editors rely on their interpretation of those clippings far more than

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on any other item. A good academic record means that the applicant is at least good at something, which is comforting. Some have served internships and their talents have been tasted, if not tested. The fact that the applicant persisted in four years of journalism education testifies to his desire, which is not to be ignored.

Most editors, when pressed, would prefer a candidate who passed with some distinction a rigorous course of study at a first-rate university—in economics, perhaps, or political science—and who appeared likely to possess a sound, unornamented prose style. There are few such candidates, and none of them is likely to settle for the starting salary on a small or mid-sized publication—a bit over $200 a week, rising to $325 or so after five years. But an applicant of that sort, who has been active on one of his college's publications, will quickly find a home on one of the major newspapers, and is more likely to learn quickly than the next man. Those exceptional instances aside, the schools of journalism are the best hiring-halls.

A good many of those who complete the journalism course do so with no intention of working in any field of journalism. They plan rather to go on to law school, or business school, or simply to discontinue their eduction at that point. Approximately 40 percent of graduates fall into that category; most of them by choice. Almost all the rest find jobs in journalism. Some of course leave quickly and some after a short while; time distributes the rest along the spectrum of periodical publications, and it is an enormously wide spectrum. After ten years or so a large proportion leave journalism with a rough and ready education that no journalism school could have provided, and go on to whatever may come naturally. Those who remain more than ten years are likely to remain until Medicare.

More theory, less practice?

Draw back from the schools themselves, and the education they provide is seen to be a liberal arts education with a perceived goal. In principle, it is not the worst kind of education an aspiring newspaperman would want. As for those who have no journalistic aspirations, their presence in the school of journalism may reflect a dissatisfaction for the kind of liberal arts education that possesses no perceived goal, or in these later years it may arise from a sense of practicality that has been spreading on campuses. Students may choose to spend their time in journalism while they decide just which they will want to do, and they are aware that work in journalism, badly paid as it may be, is better than the struggle that confronts the ordinary liberal arts graduate if he is to find any work at

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all. And it does seem, now and then at least, to be a useful sort of thing to be doing.

How long that happy state can be relied upon to endure is by no means certain. The deans are restless.

In mid-1984, a "Task Force on the Future of Journalism and Mass Communications Education" was organized under a $70,000 grant from the Gannett Foundation, augmented by $16,000 from the Northwest Area Foundation. Their report deplored the fact that many schools of journalism were "little more than industry-oriented trade-schools"; they called for more thoughtful debate on "the implications of paradigm change in mass communication for mass communication education." To them this meant, among other things, "the establishment of a proper relationship between broad-based conceptual study of mass communications and exposure to the realities of contemporary practice." Translated: more theory, less practice.

"It may be well to consider," submitted one of those who was consulted, "that down the road *all* of the students' formal 'education' will consist of the traditional liberal arts program plus modern communications theory, and that industry will assume the responsibility for training the graduates for a career."

On the whole, that prescription was not entirely to the taste of those within the media themselves. Ben Bagdikian, a professor at Berkeley who was earlier a practicing journalist at the *Washington Post*, expressed approval of his own university's decision to teach "mass communication" through its School of Sociology: ". . . the professional training of journalists," he wrote, "ought to be separate and independent from the research arms of mass communication . . . They are quite different functions."

Mr. Bagdikian was trained as a journalist and not as an educator; the views of those who hold Ph.D. degrees are quite different. They are research-minded, as their training emphasized. They perceive a school that is not primarily devoted to research as being somehow below par, and they do not wish to be below par. It is possible to render a dean speechless or worse with any intimation that "theories of mass communications" are of interest only to the theorist themselves, and certainly not to those practically engaged in mass communications.

How much effect can be expected from the report of the task force is not yet clear. If its suggestions find favor, the schools of journalism and mass communication will be converted over time to something closely resembling graduate schools of education. There

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are those to whom this appears to be a horrendous fate. Such schools provide an accrediting service for public-school teachers, to whom a master's degree is seen not as a command of educational theory to be put to use in the classroom, but as an automatic raise in pay; more than half the public school teachers hold master's degrees and many of the rest are working toward them. It is doubtful that schools of journalism and mass communications can work the same magic where the subsequent employment is in the private sector.

The risk is not imminent. The deans complain that they are held on short leash by their university administrations, and change is not likely to come fast. Meanwhile the liberal arts education they actually provide is as good as the college or the university in which they provide it. That liberal arts education is little perturbed, on the whole, by the school of journalism, except that students may very well benefit from being in the only place in the entire institution where an earnest attempt is made to teach workaday expository writing. *Primum non nocere*, as doctors say—above all, do no harm. It is not the worst of goals; the journalism schools surely meet it, and perhaps go a good bit beyond it.

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The unplanned paths of planning schools

WILLIAM ALONSO

IT IS STRANGE that city planning should have come into being as a profession during the presidencies of Harding, Coolidge, and Hoover. This was the zenith of free-market capitalism, after all. How could any form of planning emerge at this time in particular—and with the warm support of an establishment suspicious of anything that smacked of "socialism"?

This apparent paradox dissolves upon a closer look at American cities of the time. Since the 1920s city planning and the professional training for it have changed repeatedly, partly for intellectual reasons, but mostly in order to adapt to social and institutional changes. While planning schools grew quite substantially in the 1950s and 1960s, in the past ten years enrollments have been shrinking. There is talk of a "crisis" in this field. The story of planning schools is interesting for its own sake, and it may be instructive—and cautionary—for professionals in related fields.

From aesthetics to reform

Urban planning professionals trace their roots to Chicago's World's Fair in 1893. The most prestigious architects and artists of the time came together to produce complexes of malls surrounded

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by all-white, neo-classical buildings. These sparked the enthusiasm of visitors from all over the country, affording them visions of stately order to discipline the rapid growth of their own cities, giving rise to the "city-beautiful movement," best exemplified by the 1909 master plan for Chicago which Daniel H. Burnham prepared under the sponsorship of the city's Commercial Club.

The aesthetic impact of the 1893 World's Fair was great, but the roots of the city planning movement dug deeper and fed on more substantive issues. America's large cities at the turn of the century were growing at unprecedented rates, economically and demographically. Much of this population growth consisted of the new immigrants from the Mediterranean and Eastern Europe. Dense slums, ill health, and social conflict characterized the industrial cities, while suburbanization for the better-off was already underway. Increasingly the governance of cities was passing from the business elite to the political machines. The writings of the muckrakers made visible and vivid the prevailing corruption in the public and private sectors, and unearthed the poverty and the misery.

The progressive and reform movements, in their various forms, sought to check these excesses. At the local level the reformist impulse expressed itself, with varying degrees of success, in such forms as scientific nutrition, housing and health codes, zoning, at-large election of councilmen, the city manager movement, and the attempt to force disclosure of city finances through the federal Census of Governments. Some of these reforms, such as referenda, were intended to increase participation in democratic processes, while others stressed good management based on scientific principles in opposition to corrupt politics.

Of these two strains of the reform movement, city planning owed its parentage to that of scientific management. Indeed, its avowed aim was to take matters out of the hands of a corrupted "democracy," ignorant and irresponsible, and place it in the hands of well-educated citizens who had the long-term interests of the community at heart and who would be served by honest and competent professional experts—that is to say, city planners.

In short, the original city planning movement was part of a strategy by which the displaced elites sought to regain some power from the political machines. From this technicist logic emerged the characteristic form of local planning in the first decades of the century. An independent planning commission of appointed members, free from politics and day-to-day concerns, was to produce a comprehensive master plan to guide the city's development. In practice,

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the plan was usually prepared on contract by a consulting architectural firm or, less often, by the commission's technical staff. The plan itself was usually a handsome publication dealing with streets and transportation, the central business district, public buildings, parks and recreation, civic art, zoning and subdivision control. It limited itself to the physical aspects of what may be called the public city, without delving into social and economic issues; its legal status was uncertain, except as the municipal government adopted the zoning and subdivision as ordinances. The spread of this model was relatively rapid: The first city planning commission was formed in Hartford, Connecticut in 1909, and by the mid-1930s there were over 900 at the city level and over 500 at the county or metropolitan level.

Insulating the planning commissions from the rough-and-tumble of politics made them ineffective, and excluded them from participation in important decisions. Their plans were received with ceremony, then forgotten. And because, as a result of the city-beautiful movement, commissions' plans focused on the larger elements of the physical city, the profession of city planning became identified with architects and landscape architects rather than with such other early professional participants in the urban reform movement as health workers, lawyers, and land economists. Further, the architectonic approach and the distance of the commission from day-to-day decisions combined to produce an emphasis on the master plan, which —like an architect's drawings for a building—painted a picture of an end-state without directions for how one gets from here to there and, perhaps more important, without an evaluation of alternatives.

The utopian temptation

The first courses in city planning were offered in 1909 at the departments of landscape architecture at Harvard and the University of Illinois. By 1929 Harvard was offering a graduate degree program in city planning, and was joined in the mid-1930s by MIT, Cornell, and Columbia. Such professional programs grew slowly: By the early 1950s there were twenty-two planning schools, but they graduated only about a hundred students a year. They typically consisted of two or three years of post-graduate study leading to the degree of Master of City Planning. Half the students had already earned degrees in architecture or civil engineering. The teaching was done by a part-time faculty of practitioners, and its core was a workshop or studio where students, working as a team, would produce something like a master plan for a medium-sized

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city. The task was ambiguous but demanding, and so decisions were put off until the deadline threatened; then, in a flurry of writing and making judgments, maps, diagrams, and guesses the student team would stay up around the clock for two or three days, and finally stumble through a presentation to a jury of faculty and other invited practitioners. The level of instruction in these programs was low, ranging from anecdotes from the faculty's experience to the utopian flights of Frank Lloyd Wright and Le Corbusier, but the courses were extremely effective in acculturating students to the profession. I speak as one of them.

This type of training was, of course, a benign form of brainwashing. Planners saw themselves as the bearers of certain simple revealed truths, such as the evils of mixed land uses, cars, and slum housing, and the virtues of green "fingers" and "belts," and something called "The Neighborhood Concept." They tried, with little hope, to "educate the public" about these ideas. This simple-minded agenda was undoubtedly an echo of the ineffective nagging role into which the independent planning commissions had drifted in their search for government without politics. The major urban issues were building up and would break upon America in the 1960s and 1970s, but at mid-century they were nearly invisible to a profession which was essentially looking backward, or perhaps sideways, at utopias.

Transforming the domain

Although the early 1950s was a sleepy time for the profession and its schools, several developments were about to transform them. One of these was a short-lived but extremely influential Program of Education and Research in Planning established in 1947 at the University of Chicago. In a 1956 article, Harvey Perloff, who had been chairman of the program, laid out an agenda for the education of planners which had considerable impact.[1] He stressed that to achieve intellectual excellence planning schools had to have a permanent, full-time faculty which should be actively engaged in research. He called for the engagement of economists, sociologists, geographers, and political scientists, and for a lessened emphasis on three-dimensional design and site and project planning.

He advocated a more central position for the planning function in urban government, akin to the role of a general staff in an army, or what we would now call an office of budget and management.

[1] Harvey Perloff, "Education of City Planners: Past, Present, and Future." *Journal of the American Institute of Planners* 22:4 (Fall 1956).

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These ideas were not altogether new, but they were stated forcefully and at the right time, and a decade later the leading planning schools, such as those at MIT, Harvard, Berkeley, and the University of Pennsylvania, were doing reasonably well in living up to this program. They were helped in this, ironically, by the demise of Chicago's program, from which an extraordinary group of teachers and students migrated to other schools.

Several external forces strengthened the schools' new emphasis on research. President Dwight Eisenhower's national interstate highway program, begun in 1956, combined with cheap mortgages, rising automobile ownership, and expanded state and local investment in highways, helped to produce the exploding metropolis. At the same time there was considerable intellectual ferment within the social sciences, principally economics and geography, revolving around spatial questions such as metropolitan transportation and land use systems. Important advances were also made in social survey techniques, statistical analysis, programming, and, above all, in computing power.

The objective was to produce large, flexible mathematical models of metropolitan traffic and the location of homes and businesses in order to plan transportation investment and land use allocation under alternative assumptions. Federal dollars, theoretical advances, data, and new technology combined to produce a largely unnoticed "big science" in social research, with funding for some projects in the millions. In the planning schools, where research had been a rare phenomenon, the federal government provided young quantitatively-oriented academics with a financial base for their work and with an apparent practical usefulness which helped them in the sometimes bitter squabbles with the old-line physical practitioners over the form of the professional curriculum. To be sure, the arrogant positivism of those early days of computer modeling is now largely a thing of the past, but it was important then and it has left a legacy of thinking and technique which is important for city planning education even today.

A third influence, probably even greater in importance, was the passage of the National Housing Act of 1954. It expanded earlier slum-fighting programs into a large and vigorous national program of urban renewal, supported by federal grants and favorable legal decisions. It was strongly supported as well by such central city institutions as banks, newspapers, and department stores, which felt threatened by the rapid suburbanization of the white middle class and the seemingly endless influx of poor blacks. Here at last

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was a chance for planners to swing into action, eradicating cancerous slums and replacing them with healthy redevelopment.

We now know that this was a strategy flawed in several ways. It failed in many of its objectives, among them that of drawing the white middle class back to the central city and that of generating gains for the municipal treasury. In retrospect one can say that these errors should have been foreseen (and they were by some), but unanticipated errors of policy are common. It is more interesting to try to understand the roots of the planning profession's eager participation in a program which was costly, ineffective, and profoundly unjust in its residential, social, and economic displacement of the weakest in our society. This is curious because the ethos of planners at this time was still that of the New Deal, with its particular emphasis on attending to the disadvantaged. Yet many of my professional associates, kind and intelligent people, devoted years of their lives to advancing these wasteful and regressive programs. I have often asked myself—and many of them—how this could be. I have come to the conclusion that it resulted on the one hand from the temptations of power and decisive action it offered a group which had been frustratingly ineffective, and on the other hand from the intellectual shallowness of the planners' training.

It is the banality of the ideas which is of greater interest. The reformist enthusiasm from which city planning had arisen invoked environmental factors to account for the squalor and poverty of the slums, in opposition to the social Darwinists' emphasis on the heritability of inferior traits. Planning's environmentalist view was reinforced by its close association with architecture. Slums, often likened to cancerous growths, were not just the place where "social pathology" abounded: They were themselves the source of this pathology. The idea behind urban renewal was that improving these places would improve the physical and moral caliber of their dwellers.

The problem with this was, of course, that urban renewal improved an area and reduced its poverty, health, and crime rate by razing it and rebuilding it for a "better class of people." Planners, trained to think in terms of sites and projects, judged improvement by geographical areas rather than by groups of people.

A second source of the planners' intellectual deformity stemmed from what little sociology they were taught. This was a warmed-over version of the Chicago sociology of the 1920s, which had adopted many of its ideas from European sociologists of the previous generation. Planners had been taught that people in slums suffered from

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anomie and disorientation; that what values they had differed from those of society in general; that the slums had no "social organization." Therefore, top-down technical solutions seemed natural to urban planners, and consultation with the residents was viewed as unnecessary.

Only gradually did the diversity and complexity of these local societies emerge, in part through the writings of Herbert Gans, Jane Jacobs, and others, and in part through the growing political opposition to urban renewal. In the 1960s urban renewal gave way to "model cities" and the requirement of "maximum feasible participation," and the word "slum" came to be replaced by the word "community." Many planners and planning students then rejected technicist approaches and shifted to styles of planning called "advocacy" or "participatory."

This shift in the style of planning later led to profound changes in the planning schools, a subject to which we shall return. The immediate effect of the shift was the schools' new-found attentiveness to sociology and political science. The traditional studio or workshop was thus squeezed by both the soft and the hard social sciences, and its emphasis on physical design came to seem suspect and outdated. In some cases the studio became almost vestigial, with students spending most of their time in lectures and seminars.

Another provision of the 1954 Housing Act vastly increased the demand for planners: the requirement that local governments submit comprehensive or master plans as part of their applications for categorical grants, and the provision of grants to draw up these plans. Soon other federal agencies instituted similar requirements. As a result, the yearly number of professional degrees awarded jumped from about one hundred in 1954 to nearly 1,500 in the mid-1970s. By 1973 there were 5,000 planning students enrolled: 1,000 undergraduates, 3,700 in master's programs, and 300 in Ph.D. programs. The number of planning schools offering advanced degrees grew from nineteen in 1951 to fifty-four in 1973. But the mid-1970s witnessed, as we shall see, the crest of this growth.

Urban crisis and the growing domain

Federal actions fueled this growth in other ways as well. As the national government developed new programs through the 1960s and the early 1970s, many of the planning schools expanded their subject areas beyond such traditional ones as housing and land use to include the War on Poverty, PPBS (Planning, Programming, and Budgeting Systems), environmental impact analysis, project evalua-

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tion, educational planning, and so on. There was at the time little competition from other professional schools for this type of training. For instance, public health and education schools did not stress facilities and services planning, while many of the other areas of federal activity were new and so had no traditional academic base; the public policy schools began to develop only later in this period. In other words, planning schools were just about the only game in town. They had the further advantage that, whereas planning in general had always been a suspect activity in the United States, city planning in particular had long enjoyed broad political support.

Concurrently, the range of the planners' activities was changing. In early times they had focused on the preparation of master plans and the administration of zoning and subdivision ordinances, usually serving independent and supposedly non-political commissions. But by the late 1960s, planners were to be found in many other roles and in many other areas. In city halls they moved increasingly into the mainstream of local government in the "general staff" function which Perloff and others had suggested as an alternative to the isolation of the commission itself. They also moved into analysis, planning, and management in agencies such as those for urban renewal, and in programs in education and social services. At the same time, regional, state, and federal agencies undertook a vast expansion of their professional and administrative staffs. All this created an enormous increase in the public sector demand: And to this was added, slowly at first, increased demand in the private sector by developers, financial institutions, and firms with substantial real estate interests.

Perloff's goal of academizing planning schools was substantially achieved in the two decades from the mid-1950s to the mid-1970s, which may be called the decades of "urban crisis," characterized by central city decay, crime in the streets, the rediscovery of poverty, and racial conflict. "Urban" became an all-encompassing term for most of the problems of American society. The federal government and private foundations provided money for an expanded definition of urban studies at levels higher by far than in the past, supporting research, teaching programs, and fellowships. The field became attractive, socially important, and intellectually exciting to established and young academics alike. Applications for admission to planning schools skyrocketed. Applicants included, as they had not before, students with excellent academic credentials who would not have been attracted to the careers in local government or small-scale consultancies which had characterized most professional employ-

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ment. It was this new influx of money which enabled the schools to increasingly emphasize scholarship. Ph.D. programs in planning proliferated. A Ph.D. degree (not necessarily in planning) began to replace professional experience as a requirement for new faculty appointments. Faculty were now expected to do research and publish; professional work counted for little. This drive towards a research-based model of the planning school stemmed not only from views like Perloff's of the need for a better intellectual infrastructure for professional practice, but also from a quite natural desire for academic respectability within the university.

The new style of the planning schools was viewed with suspicion and even with dismay by traditional practicing city planners. To them, the new graduates were enraptured by theoretical niceties and would not know a subdivision regulation if they tripped over it. The planners' professional organization (the American Institute of Planning, now the American Planning Association) tried in various but generally ineffective ways to get the schools back on track; for instance, by requiring that some proportion of the faculty hold a type of professional membership which required substantial practical experience for school certification. The schools successfully fought off these efforts by the profession, and eventually the Association of Collegiate Schools of Planning (ACSP) became effectively independent from the American Planning Association; in the last few years, it has even held its annual meetings separately from those of the professionals.

Receding tides

From the 1975 peak the number of professional city planning degrees awarded annually dropped sharply, falling one-quarter by 1981. The number of applications has continued to decline, although most schools still have more applicants than places. No new degree programs have been established in the past several years; some have been discontinued. After two decades of continued growth, the shrinking numbers of the past ten years have prompted considerable soul-searching among planning academics. Some suggest that better marketing of themselves and their products is needed, others view the situation as a crisis. Still others view the "crisis" of planning schools as an opportunity for the field to redefine its purposes and identity.

During the period of growth the demand for planners resulted mostly from the expansion of federal programs. Can it be that lower demand accounts for the drop in students? I think not, in spite of

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the changes in the national posture toward public action in recent years; indeed, I suspect that the number of planning jobs has continued to grow, although slowly. The number of the most traditional planning jobs may have dropped, or at best increased slightly, and this would reduce sharply the number of such openings for new graduates: Planning schools are in this respect somewhat in the cyclical position of the machine-tool industry, the demand for their products depending far more on the *increase* in the number of planning jobs than on replacements in the installed base, most of which is of recent vintage. On the other hand, we have already noted the broad diversification of career paths for graduates of these schools in the public sector, so that the total number of accessible public jobs has most likely continued to grow. At the same time, the number going into the private sector has risen markedly, and graduates are to be found working for developers, engineering firms, utilities, financial institutions, in marketing, and in real estate management. In all, planning schools seem to have moved in the same direction as law schools, offering a generic product which can be "customized" to a number of different applications.

The decline in applications and enrollments stems from three interacting causes. The first is simply that there is relatively less money available to run the schools. Federal, state, and foundation funds for urban research, teaching programs, and student support are scarcer. This is partly because times are hard and because there has been a change in attitude in favor of markets and against public intervention. But to a large extent it is because the term "urban," into which had been gathered a variety of social problems, has been partially replaced by more specific labels, such as "race," "crime," "poverty," "schooling," "health," "ecology," and "maintenance of infrastructure." Many of these areas now are claimed by new or older programs for research and professional training, which compete with the planning schools for whatever funds are available.

The second factor in the decline of enrollment in urban planning schools has to do with competition from other programs. Some professional schools in established fields, such as education and public health, began to develop their own specialties in planning, policy, and management in the 1970s. This period also saw the emergence of schools of public policy, such as Harvard's John F. Kennedy School of Government, the Lyndon B. Johnson School of Public Affairs at the University of Texas at Austin, and the Hubert H. Humphrey School of Public Affairs at the University of Minnesota. Some of these were brand new schools; others were revamped

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schools of public administration. From a small base, the number of degrees awarded by such schools rose to about 8,000 yearly in 1978, and then leveled off. The competition from both types of programs undoubtedly helps explain the decrease in the number of yearly degrees awarded by urban planning schools.

The third factor cannot be easily quantified, although its relevance seems plain enough. The extended influence of urban planning schools was encouraged by Kennedy's New Frontier and Johnson's Great Society. Many idealistic young people thought they could do something to change society for the better, and planning schools seemed to offer an entryway. For whatever reason—and there has been no lack of explanations proffered—today's young people seem less idealistic and more intent on advancing their own careers. Traditional city planning jobs do not pay particularly well (about $20,000 at entry level in 1983, about $35,000 with ten years' experience, and peaking at $70,000 for the head of a large agency), and will not be particularly attractive to those lacking the idealistic impulse.

Advocacy and activism

Changes in the style and content of teaching have also reflected broader social changes. Just when the academic style seemed to be winning the battle, a counterattack ensued. Some of this came from within the profession. With growing awareness of the social costs of programs such as urban renewal, many students and faculty members became dissatisfied with the notion of plans imposed from above, whatever their technical merit, and began to advocate the participation of those affected by the programs. Just as the drive to improve research and analysis had been a reaction to the earlier fixation on physical plans, so now was there dissatisfaction with the hubris of the rationalist approach. In particular, there was a growing realization that there was often no single public interest which the planner could represent with calm detachment, but rather a welter of particular group interests often in conflict with one another; many in the schools and the profession engaged in "advocacy planning," representing the interests of particular (usually "disadvantaged") groups against other interests, including those of official government plans.

These developments within the planning schools were powerfully reinforced when general political activism swept through American campuses with its heady mixture of conflict and fraternity, utopianism and disillusion, insight and obtuseness, commitment and alienation. The field of city planning was particularly

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affected by these events because of its intimate involvement in issues concerning race and poverty, and individual, community, and property rights. The Apollonian ideal of science, analysis, and rational choice was confronted by a variety of Dionysian alternatives, from millenarianism to down-in-the-trenches interest politics. Every student and teacher, I daresay, was affected in some way. Some, particularly among the faculty, retreated to a morose and crabby neoconservatism, while others wafted off on voyages of discovery—political, sexual, religious, chemical, or some mix of these. Traces of these excesses remain to this day; the overall effect, however, was salutary. No American planning school I know of is today dominated by a single orthodoxy, and the various approaches to planning show more awareness of the complexity of issues and the strengths and weaknesses of technique.

The most notable effect on professional training has been the rebirth of the workshop or studio as a principal crucible of professional training. Workshops had become vestigial in the heyday of rationalistic social science, which tried to function on the basis of generalized propositions. Today, most students are again spending much of their time in workshops where they learn professional craft through an apprenticeship that stresses synthesis and judgment applied to the particularities of each case.

But it must not be thought that planning education has returned to the style of thirty years ago. Local particularism has again become important, but in the context of a broader understanding of comparable cases. Synthesis and judgment cannot rely only on inspiration or the words of sainted fathers, because they have to reckon with an environment dense with data and techniques to which students are thoroughly exposed in other courses.

Beyond this, the present studio as a simulacrum of professional experience is different in a crucial way. The studio of the 1950s was an exercise in which students proposed solutions to problems defined and judged by the faculty as professionals. Today's studios typically involve an actual client, such as a local agency or a community group, from the beginning, including the formulation of the problem and objectives. In the earlier studios the students' proposed plan usually was a static picture of a desirable end—a master plan. Today there tends to be greater recognition that life is uncertain and that objectives can evolve, so the studio is more likely to emphasize a flexible strategy than a fixed master plan.

A different development in the curriculum of several planning schools is worth noting. In recent years there has been much talk in universities about the barriers, which seem high and rather artifi-

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cial, between schools of business administration and their counterparts in public policy and administration. Recognizing that a growing portion of their graduates will work in the private sector, many of the planning schools are strengthening their links with real estate programs and coordinating some offerings; MIT has recently created a Center for Real Estate Development to facilitate such collaboration. This *rapprochement* of the public sector Montagues with the private sector Capulets is tentative as yet, but it bears watching for the lessons it may hold for other schools that train public sector professionals.

Rediscovering competence

At the zenith of the planning schools' expansion, Harvey Perloff (then dean of the excellent program at UCLA) worried that the academizing he had earlier advocated had gone too far, and that planning education was losing touch with the realities of professional practice.[2] He also worried about the propensity which planning schools had shown to rush into the production of planners of all kinds to take their place in the new federal programs. He urged that city planning education emphasize a modern version of its traditional core, which he saw as a tripartite consciousness: knowledge of the social, economic, geographic, and political dimensions of cities; an understanding of planning processes; and a mastery of methods for design and quantitative analysis.

Perloff proved to have been astute. Last year, a decade after his cautionary article, the house organ of the Association of Collegiate Schools of Planning devoted an issue to a rather gloomy article by Donald Kruekeberg on the history and prospects of planning schools and to commentaries upon it by distinguished planning educators of various persuasions.[3] Kruekeberg's main argument was that modern planning had hitched its wagon to the social sciences while relinquishing its technical, engineering, and design concerns; the decade-long decline in planning enrollments, he felt, was associated with a similar decline which has occurred in all of the social sciences and allied fields (with the exception of economics). He projected a continued decline in planning enrollments amounting to a crisis for the field; he called for more balanced emphasis on physical planning. The responses by the other planning educators varied in tone, from

[2] Harvey Perloff and Frank Klett, "The Evolution of Planning Education," in David R. Godschalk, ed., *Planning in America: Learning From Turbulence* (Washington: American Institute of Planners, 1974).

[3] Donald Kruekeberg, "Planning and the New Depression in the Social Sciences," *Journal of Planning Education and Research* 3:2 (Winter 1984), pp. 78-86.

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pointing with alarm to "what, me worry?" Although they did not mention Perloff, Kruekeberg's critics were surprisingly unanimous in supporting Perloff's revised agenda of refocusing on urban issues as such, of returning some emphasis to land use planning and physical design, and of narrowing the distance between professional training and the profession.

It seems sound for urban planning schools to pare down their policy studies and focus again on their traditional area of competence, especially since many of these other studies are now better presented in other settings. And it is not at all clear that this focusing will result in declining enrollments because of a limited demand for graduates of such programs. On the contrary, there seems to be a growing demand for such professionals, if they are well-trained, in both the public and private sectors.

It is this last development, the diversification of possible careers for graduates of these schools, which calls into question that part of the new consensus which advocates a closer relationship between training and practice. It is unquestionably useful to give students a sense of what it will be like to practice as a professional. As long as the profession was only identified with a few job types, the meaning of this was relatively clear in terms of the curriculum; for instance, the workshops could be structured on the students' playing their future roles. But now that the possible careers are quite diverse, it is difficult to establish an explicit link between the training and a job-defined profession.

If, as I suggested earlier, the products of these schools will be generic urban professionals who can function well in a variety of settings rather than in a few prescribed planning roles, the curriculum will need to adjust both in courses and workshops. The modest beginnings of collaboration with business schools and other professional schools, such as those of health and education, will need to be extended. And this direction seems to me a likely if not an easy one —and one which would benefit all involved.

Planning education has evolved with its changing social and political context. I expect that it will continue to do so. Perhaps it is foolish to try to predict the future, or how it may affect planning education in particular. But it does seem clear that right now the lines between the public and the private spheres are being redrawn and redefined for many of the activities of our society—the trend is mostly, but not exclusively, towards privatization. The schools of urban planning, like other professional schools, will need to rethink their instinctive and traditional exclusive orientation to one or the other sector.

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The case for revenge

ANDREW OLDENQUIST

ANYONE who reads newspaper reports of statements by crime victims, their relatives, and the parents of children whose murderers have been convicted (or acquitted), cannot doubt that the world demands retribution for criminal harm. Not just restitution or compensation, which in any case often is impossible, but retribution. Simply attending to page one of a big city newspaper shows that after every conviction the victims, or their relatives, applaud, or cry with relief, and otherwise indicate that the world can never be right again until the one who hurt them so terribly has received his due. Or consider the great hunt for Josef Mengele and for other Nazis now in their dotage; it is of course a quest for retribution, a quest that makes no sense at all on utilitarian grounds. The plots of movies and television dramas contain veritable orgies of vengeance. All those vengeful tough cops, vigilantes, and enraged parents are cheered on by audiences, one cannot help thinking, in proportion to the public's perception that the law lets criminals go free.

Private revenge, at least in fantasy or vicariously in books or on the screen, will be sweet and irresistible to some people no matter how efficient the law is. One need think only of the characters in *The Godfather*, for whom revenge is voluptuous. Indeed, it is clear that to some people the harm that justifies revenge is worth it, the

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whole transaction of being wronged and taking revenge coming out on the plus side: The pleasure of the revenge outweighs the harm that prompted it. But the great majority of us can be socialized to let officials right criminals' wrongs, if they are willing and able.

Community betrayed

There is no doubt that retributive justice, the idea that a criminal deserves punishment and "has it coming to him," is the same as revenge. Retributive justice is the revenge a society visits on those who seriously harm it or its members. But the desire for retribution does not arise unless the criminal is in some sense one of our own, someone from whom we expect cooperation and group regard; otherwise our thinking commonly does not go beyond self-defense or quarantine.

Those who do not belong to our moral community, because they are alien like members of a Stone Age tribe, or incapable like wild animals and the severely retarded, are not objects of indignation and anger except by a kind of emotional momentum or residual animism we usually recognize to be inappropriate—as when we scream at infants, or kick the car; or when French villagers tried and executed a pig for murder. The indignation that prompts us to seek retribution is usually reserved for those felt to have betrayed a bond of common moral community. Members of our family, church, or nation have at least some obligations nonmembers lack, and are held responsible where nonmembers are not.

Consider the Nagas, members of a group of tribes in northeastern India who, until recently, were head-hunters. Nagas hunted heads to adorn their huts, which gave them prestige in their villages, and not because they had anything against the original owners of the heads. If a Naga took your head, it was nothing personal. It was, on the other hand, unthinkable for a Naga to hunt heads among the members of his own fortified village. For us, the Nagas are in a sense aliens and not part of our moral community. But only "in a sense" because they are also part of the larger human community to which we all belong. So we condemn their *practice* but at the same time most of us are much less likely to be indignant toward *them*, on the grounds that head hunting was part of their culture and that they "didn't know any better." This was roughly the attitude of the Indian government, which was committed to the elimination of head-hunting but withheld the indignation one has toward ordinary murderers. Although moral reactions are not unanimous, most people think of head-hunting as somewhat like crime by the

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retarded or the mentally ill: It must be stopped but personal responsibility is diminished.

Suppose, however, that my neighbor went down to skid row and killed someone in order to get a skull to ornament the corner of the desk in his study. Now our condemnation is not just of his act but also of *him*. Moral indignation, the indignation that demands retributive punishment, is as appropriate now as it would be in a Naga village if one of them killed a fellow villager. For in these latter cases not only are safety and the common good threatened; our expectations of predictable, cooperative behavior from a fellow citizen are betrayed. When we do not punish and demand repentance from criminals, especially youthful ones, we show that we have lost these expectations, and thereby have cast them out morally in a way that is analogous to a tribe's casting someone out physically. We tell them, in effect: You are not of us, you are Nagas.

The reasons why societies hold their members personally responsible for wrongdoing go to the heart of what it is to be a society and a moral community. A society is partly constituted by the rules that safeguard social expectations and institutions: We cannot be sure who belongs and who does not without knowing who is held personally accountable for violating its rules. A whole society that never held its members personally accountable for good or evil, never expressed its collective will through praise and censure, would have at best a weak and inconsequential conception of the difference between members and nonmembers. More importantly, it is doubtful they could truly possess common values and a common way of life, if they are totally lacking in indignation at affronts to those values and that way of life.

Taking wrongs seriously

Perhaps one reason for the popularity of the utilitarian theory of punishment is that its moral content is simple and minimal. For utilitarians, the past creates no debts and only the future is relevant to what we ought to do: Action by a court, like any action, is right only if it is likely to do some future good. Hence criminal punishment is based, in large part, on the reduction of recidivism. Martin Levin, among others, has expressed doubts:

> Our penal and judicial systems serve other goals than lowering the rate of recidivism. And the tension among these goals cannot be resolved on utilitarian grounds; one reason is that the punishment of criminals is, in part, a symbolic activity that expresses our ultimate values.[1]

[1] Martin A. Levin, "Crime and Punishment and Social Science," *The Public Interest* No. 27 (Spring 1972), pp. 96-103.

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I believe Levin is right, although we must inquire into why and how punishment expresses our ultimate values.

Consider execution, the most dramatic form of retribution. After twenty-five years of arguing against capital punishment I am no longer so sure. We may never know whether executions produce a lower murder rate than does life imprisonment; indeed, sentencing that is swifter and more certain than the death penalty might be more valuable as a deterrent. Nor does execution seem justified even if it tells the murderer and would-be murderers, ritually and persuasively, that murder is wrong. The merit of execution (if there is any) is that without taking proportional retribution in grave and dreadful cases, a society compromises its honor, belittles itself, and undermines public confidence that the society takes itsef and its values seriously. For the vengeance people insist on has been entrusted to society, which they consider almost a kind of person, and if society does not act they view it as they would a person who does nothing when someone insults him again and again.

If this is at bottom a circuitous utilitarian argument (and it might be), the utility is not necessarily to be measured by safer streets or fewer murders. There may be roundabout utility in attending to a citizenry's feelings that they are a moral community that defends itself, that they respect and value themselves enough to strike hard at those who violate their most important communal values. If we execute Americans who commit espionage for money, our anger says more about the strength of our values, and the expectations which traitors betray, than it does about our fear of concrete harm to the national defense. A Soviet agent who sneaks across the border may do more harm, but he is more like a Naga head-hunter to us: We expect nothing else from him and we trade him or lock him up.

But satisfaction with our society depends on sentiments which themselves seem to have little to do with utility. A society that does not punish its criminals announces something about its self-image, like a person who neglects his appearance and personal hygiene, or a school that abandons its rituals and orderliness and ceases to make repairs. *Punishing* serious crimes (and not just quarantining or curing the perpetrators) is itself one of those rituals that contribute to a society's identity as a self-respecting moral community. One of the things that made the Ik of Uganda so pathetic was that the bodies of the dead were unceremoniously heaved out; it said something terrible about the condition of their culture and their loss of dignity.

Not punishing one's criminals is like not burying one's dead. There is an obvious reason of health for burying the dead, and an

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obvious reason of safety for jailing criminals. But the respective acts mean far more than that. A community, through its important rituals, gives status, dignity, and social identity to individuals. Righting a victim's wrong, disgracing the delinquent who has done wrong, and conducting funerals, like marriages and baptisms, are ways of taking life seriously. These ritual acts show profound respect for the individual, but they do so by incorporating the individual as a *social* being.

"Sanitized" revenge

Can decent people accept the idea that retributive justice is revenge? Or is vengeance by definition barbaric, destroying the morality of anything that partakes of it? The problem is that we cannot have a moral community unless its members are personally accountable for what they do; personal accountability makes no sense unless it means that transgressors deserve punishment—that is, they are owed retribution; and there is no doubt that retribution is revenge, both historically and conceptually. I do not believe that the logic of this chain can be broken—from moral community, to accountability, to retribution, to revenge. Neither do I believe it needs to be, in spite of the fact that opponents of retribution think the argument is over as soon as they have dug into retribution and discovered revenge. Revenge is not the opposite of justice but part of its anatomy. As Susan Jacoby elegantly put it,

> The taboo attached to revenge in our culture today is not unlike the illegitimate aura associated with sex in the Victorian world. The personal and social price we pay for the pretense that revenge and justice have nothing to do with each other is as high as the one paid by the Victorians for their conviction that lust was totally alien to the marital love sanctioned by church and state.[2]

The solution to the moral problem this presents lies in seeing that judicial retribution is not mere revenge but "sanitized" revenge, revenge over which a moral community assumes stewardship. Simple revenge is retaliation set and carried out by the victims (or their relatives); it is unpredictable from case to case, sometimes gets the wrong person, often cannot be applied because the victim isn't strong enough, and usually is harsher than what non-victims would think is fitting. Personal retaliation also has no built-in mechanism for termination, the result often being an endless feud.

When private revenge is the most common way of righting

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[2] Susan Jacoby, *Wild Justice: The Evolution of Revenge* (New York: Harper & Row, 1983), p. 12.

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wrongs, one's society is an inadequate one. For example, among the Daflas, another non-Hindu tribe in India, a sense of moral community and common interest did not extend beyond a single long-house of perhaps thirty people. The world outside the long-house was the "state of nature." Hence injuries and thefts committed by people outside this extremely narrow group were personal matters, the only recourse being retaliatory raids undertaken by victims and their relatives. Insecurity, unpredictability, and dependence on personal power and influence characterized "crime control" in the relatively pathetic and chaotic Dafla society.

It is morally and pragmatically superior to have institutionalized revenge—retributive justice—administered predictably, impartially, publicly, and relatively effectively by police and judges who are not the criminal's victims or relatives. It is still society's revenge on its own members who harm and betray it. But retaliation, "getting even," becomes retributive justice when it has met certain conditions. A penalty that is unpredictable will outrage those penalized severely. One that is imposed unequally for similar offenses, or imposed by vigilantes instead of agents of social institutions, will not be respected. Punishment by society protects you from your victim's enraged relatives, the fear of which could last forever, and substitutes solemnity and ceremony for their rage, and disgrace for their unpredictable violence. My hypothesis is that when revenge is "sanitized" in the ways suggested it turns into justice: There is no special ingredient, metaphysical, theological, or uniquely moral, that must be superadded.

Some anthropologists have tried to trace the evolution of criminal justice out of personal retaliation. The idea is that there is a development from private to public intervention as a society becomes larger and, I would add, develops a sense of a common way of life that needs to be protected. Quarrels and violence come to be seen as threats by third parties, who then enter the retaliatory process giving it consistency and predictability. As one anthropologist has written:

> The substitution of the principle of retribution at the hands of kinsmen by a judicial process and the imposition of legal sanctions by the community as a whole, marks a distinct stage in the development of moral and judicial concepts. . . . This development of a public sense of morality and the assertion on the part of society of a right to intervene in private disputes of individuals has nowhere been a sudden process.[3]

[3] Christoph von Fürer-Haimendorf, *Morals and Merit* (Chicago: The University of Chicago Press, 1967), pp. 85-92.

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Too ashamed to shame?

To defend retributive punishment it is not necessary to defend capital punishment or the Biblical doctrine of "an eye for an eye." Consider, nonetheless, that peculiar expression. The eye-for-an-eye view was actually the position of the "bleeding hearts" of Biblical times: One may exact only *one* eye for an eye, only one tooth for a tooth. Retribution, as punishment, normally exacts more from the criminal than the criminal took from his victim. Otherwise it would not be punishment but simply delayed payment. If I steal a bottle of whiskey and the penalty is a bottle of whiskey, I might as well steal it since the worst that can happen to me is that I will be made to buy it.

Considerations of deterrence aside, the fittingness of exacting a greater price from the criminal than he gained from his crime may lie in the fact that the criminal himself typically imposes a price on his victim that is greater than what he gains from the crime. (For example, muggers, rapists, burglars, and vandals almost always gain less than their victims lose.) The Biblical injunction prohibits this normal ratio in the case of bodily harm, insisting that the costs be equal, presumably on the humanitarian ground that impaired bodily function is permanent and terrible and ought not to enter into judicial calculations in the same way as a criminal's possessions.

Even so, we moved beyond mutilation as a legitimate part of civilized justice, partly because we have jails in which we can deny freedom and leave the body whole. And we kept moving, finally reaching a point at which we are unwilling to shame, humiliate, or even morally censure criminals. Most likely the real reason why we prohibit flogging is not its violence, or the risk of mutilation, but the fact that it is a moral ritual, a ceremonial expression of disapprobation and shaming. If so, we ban flogging because of the only thing that was good about it, and lying behind our wrong reason is the fact that we have banned moral acts in public and relegated them to our private lives.

In primitive societies without jails the punishment of criminals is fines, disgrace, and disapproval, and in the extreme case, banishment. Permanent banishment in tribal society is the equivalent of execution in modern society, because it is the only punishment that gives up on the criminal. Disgracing the delinquent is an affirmation that he still belongs; banishment casts him out. People who think disgracing is disgraceful and who will not "teach young people shame," thus allowing them to grow up shameless, do not understand that societies speak by means of rituals and that disgracing is the ritual societies substitute for personal retaliation.

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Consider a recent example. The imam of the most important mosque for the Muslim minority of Singapore related to me the following story of crime and rehabilitation. For two months members of the congregation, while at prayer, had had personal possessions disappear. Finally a nineteen-year-old was discovered to be the thief and a policeman in the congregation said, "I will arrest him and take him away." The imam said no, not in his mosque, and if the policeman arrested the young man outside, no member of the congregation would testify. The imam asked to take charge of him. He told the young man, his parents, and the whole congregation, that he must come to prayer twice a week with his parents, make restitution, and if he did not he would turn him over to the policeman. Now a strange thing happened: A number of members of the congregation gave the young man presents. It was a way of telling him that he still belonged and of wishing him well in his efforts. The story had a happy ending (although the imam told me of other, more serious cases, that ended in failure). There is something universal about this case. We can understand its psychology, even though the imam's Arab roots and Singaporean environment are pretty distant from American culture. Nonetheless an American minister, priest, or rabbi is unlikely to reach the first stage, for he is brought up to recoil at the idea of *telling* the whole congregation that the young man was a thief.

I am not suggesting that we should rant at criminals and call them bad names. That would be undignified and thus, counterproductive. A moral community sublimates its indignation and releases it again as solemnity and ceremony: Just as personal revenge gets civilized in the ways described and becomes judicial punishment, moral indignation and anger become solemn ritual and ceremony. For this reason a symptom of the de-moralization of juvenile justice is informality. A judge who sits in black robes, in a setting that is dignified, solemn, and formal, is universally understood to speak for the moral will of a community. The delinquent knows it is serious and that *he* is taken seriously. A judge or hearing officer who abandons formal ritual and "raps" with a delinquent, trying to be his buddy, is likely to be viewed with contempt. Juvenile justice officials who think informality and de-ritualization better enable them to "reach" delinquents probably accomplish the opposite of what they intend.

Ritual and the maintenance of community

But what has ritual to do with retribution? A judicial proceeding, like marriage or an inauguration, is a ritual, which, worldwide, is

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how one tells that one's clan or tribe and not just an individual is speaking. Solemn ceremony and judicial punishment replace invective and personal retaliation. The primary form revenge takes when it is socialized is disgrace, which involves social ritual. The primary forms that anger and indignation take when they are socialized are solemnity and ritual. Thus both disgrace and ritual are vital parts of retributive justice. Without ritualized, solemn censure, revenge does not turn into retribution, and punishment, in the eyes of the criminal, either regresses back to personal acts of officials (backed by the force of the state) or becomes an arbitrary, pointless process. A society that of its own accord abandons judicial ceremony and solemnity is one in which the social will has lost its voice.

The essence of civilized retribution is public, ritualized shaming; shaming and humiliating criminals is a morally superior and more effective punishment than just fining them, or beating them, or locking them up. This is because eliciting these emotions, if we can manage to do it, reinforces the tie between delinquents and their moral community and gives them strong motives to regain their honor and acceptance. A fine or beating, especially in the absence of ceremony, is less likely to do that. If we just fine someone, or take him out in the yard and shoot him, we are simply disposing of a problem. But if we try to elicit confession and contrition we are seeking a moral transaction with a fellow human being with whom we share at least some principles, even if we then take him out and shoot him. This is why revolutionary tribunals and inquisitions often go to such lengths for "sincere" confessions: They seek to create a moral transaction—a retributive act that is the act of a moral community, as distinct from a naked exercise of force.

It is a peculiarity of our contemporary culture that we are ashamed to shame criminals but tolerate their degradation. It is, I think, one of the many consequences of our radical individualism: Public shaming is an imposition of the public will on the individual and testimony to the delinquent's subordination to the public will. Much of our criminal processing is degrading because it is impersonal and morally neutral. It is remarkable that we do not flinch at the indignities a prisoner suffers during five years in prison, but are aghast at the idea of shaming him in his community while keeping him free. The moral condemnation and disgrace to which a healthy society subjects its criminals, through solemn rituals of courts and punishment, bear no similarity to the sordid and the degrading; on the contrary they are a necessary condition of avoiding the alienation and dehumanization of criminals that results from treating them like locusts or a disease.

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Is "strict separation" too strict?

MORRIS B. ABRAM

THE delicate balance between the separate allegiances demanded of the individual by the state on the one hand and by religion on the other has troubled mankind for centuries. Jesus Christ was obliged to face the issue when He was taunted by the Pharisees and Herodians to decide, "Is it lawful to give tribute to Caesar or not?" Christ elegantly responded, "Render unto Caesar the things that are Caesar's and to God the things that are God's." It was an enigmatic response that his enemies could fault neither as treason nor as faithlessness to his principles. The Gospel of St. Mark relates that Jesus' enemies were so struck by this remark that they "marvelled at Him."

Our Founding Fathers captured something of that insight when they framed the First Amendment to the Constitution. Theirs was the task of addressing the relationships among the individual, the state, and the church in a manner that would preserve the right of the free exercise of religion and yet guard against those types of church-state entanglements that suggest an "establishment of religion." The language employed—"Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof"—is also enigmatic, like Jesus' words, allowing for a flexibility in the complicated balancing of rights and obligations that is

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essential in resolving such serious questions. Since the 1940s, when the religion clauses of the First Amendment were applied to the states, the Supreme Court has faced the unenviable task of adjudicating disputes within the framework of the Founders' carefully constructed language. In zigzagging through this minefield of competing and passionate viewpoints, the Court has generally followed a pragmatic course, while openly recognizing the difficulty of its task. The justices have found this area so perplexing that Chief Justice Burger, the author of several landmark decisions in the church-state area, confessed in *Lemon* v. *Kurtzman* (1971) that "candor compels acknowledgement . . . that we can only dimly perceive the lines of demarcation in this extraordinarily sensitive area of constitutional law."

Of course, the words of the Founding Fathers, though ambiguous, do furnish some guidance. It is clear that no American must ever be required to endure the traumas of King Charles II, the secretly Catholic King of England who wished to pronounce his last confession and obtain absolution from a Roman priest in the land where he headed the established Anglican church. There, "free exercise" meant a religious monopoly with the practice of other religions a capital crime. Thomas Macaulay relates in his *History of England* how a transient Catholic priest was clandestinely ushered into the palace to give Extreme Unction to the dying king. It is a far cry from seventeenth-century England to twentieth-century Georgia, and the First Amendment was well-embedded (though not applied to the states) when I attended the so-called "public school" in Fitzgerald, Georgia. But these Southern public schools were white Protestant establishments in everything but name. The day began with prayers featuring New Testament scriptures—including the tirades against the Jews in the Gospel of John—read by teachers employed by the state. One would hope that the Founding Fathers would have regarded this state-enforced, sectarian prayer practice as unconstitutional. To me, that is a logical reading of the establishment clause. A free exercise which imposes religious involvement is really no free exercise, and may slip into the trappings of establishment. Our constitutional framework guarantees free exercise except to those who would demand (as the seventeenth-century English state) an exclusive free exercise into which others are coerced.

Conflicting guarantees

What does the religion clause mean? Insofar as it's at all clear: Explicitly, that there shall be no established church to which citi-

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zens must pay either tribute or obeisance; implicitly, that there should be no state preference for any faith—or non-faith; and also implicitly, that everyone should be free to follow within the limits of public order his own religious—or non-religious—beliefs and practices.

While the Supreme Court's decisions interpreting the religion clauses have been generally sound in result, it is probably a mistake to try to shoehorn them into any single doctrine. Neat efforts, like the tripartite test of *Lemon* v. *Kurtzman*, tend to founder in an area as complicated as the church-state relationship.[1] Moreover, doctrinal statements of universal applicability generally prove futile in church-state adjudication. Professor Phillip E. Johnson acknowledges the problems:

> . . . Supreme Court decision in the religion area cannot be justified on the basis of the abstract legal concepts discussed in the opinions, because too much freedom exists in characterizing the issues and applying the subjective tests. Moreover, the doctrinal objectives are inherently contradictory, providing at once both a special legal position for religion and a principle that the law is not supposed to favor or disfavor religious belief. Finally, we have no principled definition of religion, and hence no way to justify treating religious beliefs differently from other beliefs. Doctrinally, first amendment religion law is a mess.[2]

Whenever we have to balance the rights of diverse religious and non-religious groups, the perils of doctrinaire readings of the religion clauses abound. Some people become so doctrinaire in their zeal for separation that they resemble those whose purpose and practice they abhor, elevating a set of secular principles to an establishment. Extremists imperil civic order in a very diverse society where tolerance is the lubricant that keeps friction at bearable levels. Those who believe that they have a monopoly of righteousness ignore that in matters of religion we are, as the historian Martin Marty has put it, a nation of "behaviors" if not necessarily of believers. The price of doctrinaire, uncompromising postures in a diverse society is often very high—witness Lebanon and India, wracked by religiously-inspired violence. I do not think that public policy in this area should be made through cases which litigating lawyers bring at the margins. It is the space *between* the extremes that needs to be protected, not the extremes themselves.

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[1] The tripartite test requires that the statute under review must have a secular legislative purpose; a principal or primary effect that neither advances nor inhibits religion; and that it must not foster an excessive government entanglement with religion. All three prongs of the test must be satisfied if a statute is to be upheld under the First Amendment.

[2] Phillip E. Johnson, "Concepts and Compromise in First Amendment Religious Doctrine," 72 *California Law Review* 839 (1984).

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The complexity of competing interests and rights emerges dramatically in the current debate over "equal access" for voluntary, student-initiated religious clubs in public universities and schools. The late Justice Harlan ruled in the landmark *NAACP* v. *Alabama* (1964) that "people have a fundamental right to associate to advance their political, economic, religious or cultural beliefs or opinions." This right of association is derived from the right of free speech. However, this fundamental right of religious association can conflict with the establishment clause. In its effort to avoid the appearance of government sponsorship of religion, the state may sometimes find it necessary to curb the right of religious association and speech. By so doing, it inevitably curtails an unqualified right to free exercise. The mandate of the establishment clause and the necessity of preserving an ordered society require that the right of free exercise be qualified. The balancing process requires that each case be judged on its own facts. Thus, the students at a public university in Kansas who were barred from using a room in the student activities center for meetings of a voluntary religious club clearly have a constitutional right of equal access to the facility. Denying adult students access to a student activities center which all "non-religious" clubs are permitted to use burdens free exercise quite unnecessarily, because the state can hardly advance a particular religion or any religion at all by permitting a voluntary club to exercise its rights of religious association.

Such a policy of denial of access even suggests a hostility to religion—scarcely the intent of the deistic Founding Fathers. Different questions arise when a religious club wishes to meet during the school day under teacher supervision in a high school, where attendance during school hours is compulsory. (This is the issue that the Court will address in *Bender* v. *Williamsport* during the coming term.) The line between accommodation and free exercise on the one hand and the avoidance of entanglements approaching establishment on the other is so fine that particular variables demand different case-by-case results.

Open door in the "wall of separation"?

Throughout the last forty-five years, the Supreme Court has recognized that a pragmatic accommodation of religion is mandated by both the free exercise clause and the need to ensure that separation of church and state does not result in discrimination against religion. Thus, in the first major case including both establishment and free exercise concerns, *Everson* v. *Board of Education* (1947),

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the Court made clear that some accommodation of religion might be mandated by the free exercise clause. The state "cannot under the free exercise clause hamper its citizens in the free exercise of their religions by denying them the benefits of public welfare legislation." The majority ruled that the state of New Jersey could reimburse parents for money spent to transport their children to private schools on public buses.

The line of the so-called "accommodation" case is continuous. In 1952, the Court ruled "released-time" programs in public schools were constitutional. In *Zorach* v. *Clayson* (1952), Justice Douglas wrote: "When the state encourages religious instruction or cooperates with religious authorities by adjusting the schedule of public events to sectarian needs it follows the best of our traditions." In *Board of Education* v. *Allen* (1968), the Court held that a state may lend books to parochial school students without violating the establishment clause mandate. On the same day the landmark *Lemon* v. *Kurtzman* was decided, the Court in *Tilton* v. *Richardson* (1971) approved grants to private (including parochial) colleges for construction of religiously neutral facilities. These decisions alternated with those which declared religious programs in public school classrooms unconstitutional, school prayer (even if voluntary and nondenominational) a violation of the establishment clause, and held various forms of direct aid, including some varieties of tax deductions, salary supplements, and reimbursements to parochial schools and parochial school teachers, impermissible under the religion clause.

The Court of the 1980s continues to zigzag through this confusing territory, showing its willingness to remain flexible and occasionally to rethink or modify some of its earlier pronouncements, as well it should. After all, the Court is setting high policy in an area of extreme passion, interpreting an ambiguously-worded document proclaiming two principles that are in perpetual tension. It might be said to be "accommodating" religion more benevolently than in previous years, but this hardly seems cause for alarm. As the Chief Justice commented in 1984 in *Lynch* v. *Donnelly* (in which the constitutionality of a Nativity scene, owned and erected by a municipality in Rhode Island, was upheld), the Court remains sensitive to the intention of the establishment clause, as it always has been:

> Rather than mechanically invalidating all governmental conduct or statutes that confer benefits or give special recognition to religion in general or to any one faith—as an absolutist approach would dictate—the Court has scrutinized challenged legislation or official conduct to determine whether, in reality, it establishes a religion or religious faith or tends to do

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> so. . . . In each case, the inquiry calls for line drawing; no fixed per se rule can be framed.

On the other hand, the Chief Justice made clear that the Constitution does not require a total separation of church and state; in fact, "it affirmatively mandates accommodation, not merely tolerance, of all religion and forbids hostility towards any."

The recent cases favoring accommodation certainly do not betray the words of James Madison in "Memorial and Remonstrance," which might be called the inspiration of the religion clauses. According to Madison:

> It is the duty of every man to render to the Creator such homage, and such only, as he believes to be acceptable to him. This duty is precedent both in order to time and degree of obligation, to the claims of Civil Society. Before any man can be considered as a member of Civil Society, he must be considered as a subject of the Governor of the Universe.

Madison himself helped choose a Congressional chaplain and Thomas Jefferson worked to support divinity schools. It would be wrong for the Supreme Court to ignore the past and present role of religion in American life. It is obvious that the "unbreakable wall of separation" does not exist as a matter of practicality in 1985, nor did it ever. We hire chaplains for our armed forces, grant tax exemptions to our churches, place "In God We Trust" on our coins—and nothing less than an engraving of Moses holding the Ten Commandments decorates the chambers of the highest court in the land. None of these "accommodations" seems to threaten our constitutional obligation to guard against establishing a state church or anything suggestive thereof. And neither for that matter should allowing menorahs or Nativity scenes on public lands during the holiday season or providing some kind of assistance to students attending private schools pose such a threat. As far as the public school classroom is concerned, I fully recognize that there is a difference between science and its method and religion and its faith. I do not suggest that religion be taught as science or science as religion. Thus, I would oppose creationist teaching as science but support references in the classroom to the theory of creationism as an article of faith for certain religions.

In *A Certain People*, a new study of the Jewish community in the United States, Charles Silberman makes some salient points about the attitude of certain Jews toward religion and the state:

> In the absolutist position Jewish liberals take on church-state issues, they sometimes sound as extreme (and at times as intolerant) as the fundamentalists they oppose. One reason is a failure to distinguish the general ques-

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> tion of the relation between religion and politics from the specific questions involved in the debate over abortion, school prayer and other church-state issues—a failure to recognize that Ronald Reagan was right when he said that religion and politics are inseparable and wrong when he advocated a return to school prayer.

I cannot help wondering whether the people who are rightly offended when public figures refer to the U.S. as a "Christian nation" might not let pass or even approve of references to our "Judeo-Christian" society. This more inclusive description still leaves out Muslims, Hindus, Buddhists, and non-believers, so is it the principle over which they fight or the fear of exclusion?

Even the leaders of the minority Jewish community in the United States have not always advocated a doctrinaire separationist view of the church-state relationship, as is often presumed. In her new book, *Encounter with Emancipation: The German Jews in the United States 1830-1941*, historian Naomi Cohen points out that although the Jewish community in the nineteenth century "spouted the rhetoric of separationism, and even cited Jefferson's famous letter on the wall of separation, [they] usually meant a neutral-to-all religions rather than a divorced-from-religion state." Cohen notes that Louis Marshall, the national spokesman of American Jews on the eve of World War I and president of the American Jewish Committee, found nothing offensive about the reading of the Bible in public schools, provided that it did not become sectarian—from my experience, a fatuous hope, but that does not make me an uncritical ally of all separationists.

Accommodation and the schools

When strict separationists demand that the Court treat religion "specially" so as to suggest that any accommodation becomes synonymous with establishment, the net result is that secular, non-theistic beliefs receive all the benefits of free exercise protection without being subject to any of the restrictions of the establishment clause. The logical result of excluding any mention or accommodation of a civic morality grounded in religious faith is to discriminate against religion and, practically speaking, to favor non-religion. While it is abundantly clear from the First Amendment that the government should not prefer one religion over another, must it necessarily then prefer non-theism?

I posit these questions with the full awareness that our public schools must never be allowed to become the "church" school of any one faith. Given the diversity of the people in this country, it is

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essential that we maintain a public school system where none feels excluded. But, I must ask, if our public schools are to be denuded of religious tradition, in deference to non-theism, is it logical that we vehemently oppose any kind of aid to children whose parents wish them to attend accredited private and parochial schools?[3]

I think it is time for strict separationists to reopen some areas of the current church-state debate. There is certainly every reason to remain vigilant that religious preference does not again rear its ugly head; on the other hand, to reject minimal aid to parochial school students who are faced with ever-rising tuition fees on the theory that the wall of separation will come tumbling down uncontrollably may be an overreaction. In a country of believers, or those who act as such, well-intentioned separationist positions that burden free exercise in less than subtle ways are bound to raise hackles. Separationists should not take unequivocal positions on each and every issue which litigating lawyers can demonstrate as involving church-state concerns.

The Court has generally invoked the free exercise right when a central religious tenet is at stake and some form of government action or coercion burdens or violates that tenet. However, if a state interest of sufficient magnitude exists, the right to free exercise must be qualified. For instance, in *United States* v. *Lee* (1982), the Court disallowed an Amish employer's claim for an exemption from paying a Social Security tax on employers/employees because the payment violated his religous beliefs. Nonetheless, when a free exercise claim is invalidated solely on the basis that it would contravene the establishment mandate, there is room for debate as to what exactly is prohibited by the establishment clause. Justice O'Connor has suggested that a more generous reading of the free exercise clause need not threaten the prohibition of establishment. In her concurrence in *Wallace* v. *Jaffree* (1985) she states:

> The solution to the conflict between the religion clauses lies not in "neutrality" but rather in identifying workable limits to the Government's license to promote the free exercise of religion. The text of the Free Exercise Clause speaks of laws that prohibit the free exercise of religion. On its face, the Clause is directed at government interference with free exercise. Given that concern, one can plausibly assert that government pursues free

[3] I acknowledge that any program of aid to private or parochial schools stirs fears that too many types of schools will arise, challenging the public school system and the concept of national unity it engenders. However, it should be noted that the splintering has already begun as the rich and not-so-rich leave public schools. Furthermore, some splintering might benefit our crisis-ridden education system. Society has long recognized the danger of monopoly in other areas; more vigorous competition among public and non-public schools may help both improve their standards.

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> exercise values when it lifts a government-imposed burden on the free exercise of religion. If a statute falls within this category, then the standard Establishment Clause test should be modified accordingly.

The denial of any form of tuition vouchers or tax relief for parents of students attending accredited parochial schools often victimizes the young and the poor who are thereby, practically speaking, unable to exercise their right of free exercise. If free exercise is to be meaningful, then should it not be extended to young children as well as college students? If a G.I. can use a grant from the state to study for the priesthood at Notre Dame, shouldn't parents be given the option of using tax money which presently goes automatically to the public school system to choose a parochial school for their child instead?[4] By continuing to sanction a situation in which the religious school option is so prohibitively expensive that only the children of the rich can afford a religous education, we create a system where only the wealthy can effectively exercise their religious beliefs.

It should be remembered that the right of a parent to send his child to a non-public school was recognized as a fundamental right of personal liberty even before the First Amendment's religion clauses were incorporated. In *Pierce* v. *Society of Sisters* (1925), the Supreme Court invalidated an Oregon State law which made it mandatory for all children in the state to attend the public school system. Should this right be available only to the rich who can afford tuition fees any more than the right to abortion be denied those who cannot pay? True, the government has no obligation to "fund" each and every fundamental right so that all can exercise it. But when a fundamental right of choice is involved, and the beneficiaries are young people wishing to pursue their education in a religious environment, it is hardly unreasonable to support some sort of arrangement that relieves the prohibitive cost of exercising this right.

Reference, not preference

Of course, when the government becomes involved in funding private schools, whether directly through subsidies or indirectly through providing secular services or tuition reimbursements and tax breaks, new problems arise. Though any federally or state assisted private schools would be subject to the civil rights laws, thereby assuring that the government would not fund any private school which practices discrimination, that concern is only one of many.

[4] I recognize the contention that the schoolchild may be more impressionable than the college student. But is free exercise to be denied at the age when family values and religious beliefs are most effectively transmitted?

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With increasing public control, there is a real danger that private and parochial schools will lose their uniqueness and independence. Money for free exercise can easily begin to dull the instinct for free exercise. These are factors which must necessarily be weighed in considering any government assistance program. These are not, however, valid reasons to close debate on the issue entirely. We should be willing to consider the many possible routes by which the right to pursue a religious education might be made a truly equal and viable one. To repeat, accommodating a generous right of free exercise does not necessarily mean establishment. I say this while acknowledging the fear that small transgressions of the separatist principle may lead to larger ones. Still, the boundaries of the constitutional language and the precedents of the Court should be very reassuring.

Above all, I think that we lose something as a community by completely banishing religion from the body politic. Charles Krauthammer has remarked on "the tolerant, non-coercive and inclusive aspects of a civil religion which has infused American life with a sense of transcendency." This civil religion might use the common threads of the Jewish and Christian traditions (practically speaking, the vast majority of the population) as a reference, yet never as a preference or as a tool of coercion.

Generally speaking, the Supreme Court, faced with the monumental task of drawing vague boundary lines mapping the territories where church and state should remain separate and where they should be permitted to overlap, has successfully reconciled the powerful social pressures and seemingly inconsistent values with which it has had to struggle. The results that the Court has reached, while clearly difficult to harmonize with a rigidly doctrinal perspective, have accommodated religious exercise without violating establishment. The Court, particularly in recent years, has become increasingly sensitive to the perceived anti-religious implications of a rigidly separationist approach. In so doing, it has managed to fashion a First Amendment consistent with its historical underpinnings and modern social realities. It has managed to "render unto Caesar the things that are Caesar's and to God the things that are God's."

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Chemical catastrophes and the courts

MARTIN T. KATZMAN

BHOPAL, Times Beach, Agent Orange. Hardly a week passes without a news story about some community disaster traced to human exposure to a hazardous substance, with the latest culprit invariably described as the "the most toxic chemical known to mankind." In the issue-attention cycle of American politics, toxic chemicals are surely in the ascendancy. Political entrepreneurs eagerly seize upon the issue of protecting their constituents from chemical assault. Meanwhile, Bhopal is compared to Three Mile Island, and the dump sites scattered in thousands of places around the nation are described as "chemical time bombs."

What is the nature of chemical risks? How do they differ from other natural and man-made risks? What policy instruments does society possess to cope with chemical risks in a reasonable way? Is there an easy fix?

The nature of chemical risks

The rise of chemical risks is often traced to the rapid growth of the synthetic chemical industry in the past forty years. In addition to putting naturally occurring minerals to new uses (for example, using asbestos as a fire retardant), industry has generated a cornucopia of

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new compounds not previously found in nature. The number of synthetic chemicals in the repertoire of industrial societies now exceeds 4 million, although only about 55,000 are in common use.

With the exception of a few chemicals developed for warfare, like Agent Orange, most synthetic chemicals have been developed for benevolent uses. Unfortunately, some of these chemicals prove to be dangerous either at common levels of exposure, or in combination with some other apparently harmless chemical. The list of useful substances with potentially hazardous side-effects includes the fire-retardant Tris and electrical insulator PCBs. When hazardous side-effects are discovered, a safer substitute can usually be developed, but not always.

Until the accident in Bhopal, public attention to chemical hazards in the environment focused upon waste disposal, the end of the "chemical life cycle." Bhopal showed that human exposure to hazards can occur at many points in the chemical life cycle. Workers may be exposed during the manufacture of the primary chemical from raw materials, during the fabrication of a consumer product, or in the use of the chemical in, say, insulating roofs with asbestos tile. Consumers may be exposed through their use of the chemical in the home. The public may be exposed at any stage in the cycle, as chemicals may escape into the air, the surface water, or groundwater. For example, the methyl isocyanate that injured the residents of Bhopal was an intermediate product in the manufacture of a common insecticide that is rendered relatively harmless to humans after a few days in the field. Similarly, the dioxins to which the residents of Times Beach, Missouri were exposed, were also a waste product.

While the volume of synthetic chemicals in use has multiplied dramatically, human exposures to significant chemical hazards in the environment probably have not. The vision of a modern society increasingly poisoning its environment is difficult to reconcile with the fact of dramatic improvement in life expectancy in the past decade. The incidence of cancer is generally taken as the barometer of toxicity. While carcinogenesis may take decades, synthetics have been used long enough so that major increases in its incidence would have been observed by now. In fact, the age-specific incidence of cancers has remained remarkably stable. Because cancer appears to be a function of aging, the increasing proportion of deaths attributable to cancer probably results from our increasing life span.

Another fact that puts synthetic chemical hazards in perspective is the ubiquity of natural carcinogens. While regulators are gener-

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ally concerned with protecting the public from exposures measured in parts per million or parts per billion, we routinely consume parts per thousand of carcinogens in such mundane comestibles as peanut butter and well-done steak. Epidemiologists trace about 25 percent of all cancers to man-made environmental and occupational exposures, and the rest to voluntary consumption of foods, drugs, and stimulants, and to naturally-occurring carcinogens.

There is nothing irrational about the public preoccupation with risks of dioxin rather than risks of peanut butter. Chemical hazards in the environment are obviously different from familiar, commonplace hazards. We have chosen to worry about demons which are imposed by the actions of others, which may lead to mass disaster, and which may have irreversible or intergenerational effects—concerns common to materially-advanced societies worldwide.

Voluntary and involuntary risks

When potential victims are knowledgeable, it is not difficult to achieve acceptable levels of voluntarily-borne chemical risks. Where two parties have a contractual relationship, this may be achieved by informed bargaining—for example, in the workplace. In the past, many companies kept the characteristics of chemical hazards a "trade secret," so that worker consent was not "informed." Recent "right to know" legislation has changed all that. So have labor unions, which have accumulated expertise in assessing the hazards faced by their members. Employers offering risky jobs may now be faced with exceptionally high employee turnover, may have to offer "combat pay" to retain the labor force, or may have to pay high Workers' Compensation premiums.

In the case of consumer products, agreeing on what constitutes acceptable risk is more difficult. For example, upon weighing the risks against the benefits, an individual may choose to smoke, to put saccharine in his coffee, or to spray his garden with chlordane. The dispute over saccharine suggests that we do not readily consent to paternalism when we feel informed and competent. Yet because we are exposed to so many chemicals embodied in products, it is almost impossible to make informed judgments about all of them. Such exposures can be viewed as involuntary, and it is reasonable for us to delegate decisions about acceptable exposures to consumer products to a governmental agency. The argument applies *a fortiori* to involuntary exposures to chemicals in the environment.

Bhopal and Love Canal, of course, are examples of involuntary chemical exposures. Without question, the public is far less tolerant

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of involuntary risks than of voluntary risks of similar magnitude. The search for institutions to regulate or manage involuntary risks must be guided by two considerations: efficiency and fairness.

Efficiency means minimizing the total of the cost of accidents plus the cost of preventing accidents. This does not lead to a policy of zero risk. In traditional theories of negligence (articulated as Judge Learned Hand's rule), reasonable risk management is achieved when the cost of additional expenditures on safety just offset the change in the probability of an accident multiplied by its severity. For example, under the common negligence rule, a hazardous waste dump operator is not expected to spend an additional $1 million to lower the probability of a $10 million accident by one chance in a thousand. If the operator declined to spend $1 million and reduce the probability of an accident by one-half, then he would be held negligent and liable for damages. Encouraging cost-effective deterrence, this common law rule bears an obvious relation to economic rules of optimality.

Efficient deterrence may conflict with fairness or equity. Suppose the victim of a rare event, in a case in which the polluter is not negligent, does not recover damages. Since the victim was innocent and unknowing, the outcome appears to be unfair. Moreover, the cost of this accident is not reflected in the cost of the polluter's product. For rare accidents, like chemical injuries, reconciling efficient deterrence and just compensation is not easy.

There are three mechanisms for managing risks: tort law, statutory regulation, and economic incentives. All can contribute to regulating chemical hazards, but none provides a panacea.

Toxic torts

Common law is a traditional mechanism for recovering damages. Victims can seek redress for injuries under various theories, such as nuisance, trespass, or negligence. Regardless of the theory, there are several steps that the victim or plaintiff must take: the suit must be filed within the statutes of limitations; a specific defendant or defendants must be identified; and the victim must prove a causal connection between the defendant's behavior and the plaintiff's injury. The alleged polluter may defend himself by arguing that the plaintiff's behavior was crucially responsible for the injury. The plaintiff may have come to the nuisance (for example, by moving into the Love Canal neighborhood in the first place), by contributory negligence (trying to pick up a housing "bargain" now that Love Canal has been deemed safe), or by neglecting to take reasonable avertive behavior.

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For normal mechanical injuries, these rules have proven to be workable. For example, if a pedestrian is struck by a car, the injury is immediately apparent. Usually, the courts can determine the cause of the accident and can apportion liability in some reasonable manner. Questioning the plaintiff's contributory behavior (did he jaywalk?) is reasonable if the victim could have avoided the injury easily and cheaply.

Chemical injuries pose more difficult problems of regulation and risk management through the tort process than those from common "mechanical" technologies. Indeed, the traditional system breaks down because of the unique character of chemical hazards.

First, a statute of limitations prevents the filing of a suit after a short period, three to five years, after an accident. Many toxic chemicals, however, persist in the environment; that is, they do not break down easily into harmless substances. A chemical may gradually seep into the groundwater or may become concentrated as it works its way through the food chain. As a result, the time of a spill or a release may precede the time of human exposure by many years. Second, for some toxic chemicals, particularly carcinogens, the time of human exposure may precede the manifestation of injury by several decades. For these two reasons, conventional statutes of limitations provide insuperable barriers to recovery.

Third, there are multiple pathways through which a given chemical may affect humans. Where the exposure occurs determines whether the victim can seek a remedy through the Workers' Compensation system, through a product liability suit, or through appeal to environmental protection statutes. Even if the locale of exposure were identified, it may be practically impossible to identify the defendant whose molecule caused the plaintiff's injury. This is clearly the case of exposures from hazardous waste sites, where many companies discard identical chemicals.

In order to prove causation in toxic torts, the plaintiff must establish the following facts: there was a hazardous condition; the defendant's conduct resulted in this condition; the plaintiff was exposed to this condition; the plaintiff suffered a demonstrable injury; and there was a proximate causal connection between the exposure and the injury. Proof of causation depends upon presenting sophisticated biomedical evidence, most of which is indirect or analogous in nature. Because toxicologists are uncertain about long-term human responses to low, intermittent doses of chemicals, such evidence is rarely conclusive.

The major barrier to recovery in toxic tort litigation is the cost of establishing causation. The cost of the necessary scientific testi-

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mony may exceed the damages recovered. The plaintiff may thus be unwilling to file a suit. The costs of litigation might be spread by aggregating similar claims. Aggregation through a class action is generally possible when all plaintiffs have suffered nearly identical injuries from the same accident, such as an airplane crash. Because exposures to hazardous chemicals may occur discontinuously over a long period of time and because victims' symptoms differ, courts are reluctant to certify toxic torts as class actions.

Caution in the courts

The courts have responded reasonably to the inability of the traditional common law to deal with toxic torts. In the past decade, changes in toxic tort law, related to changes in product liability law, have been nothing less than revolutionary. This revolution has proceeded at an uneven pace from state to state. In some states barriers to recovery in toxic tort actions have also been reduced by statute.

About three-quarters of the states have solved the problem of statutes of limitations by adopting a "discovery rule." Under such a rule, the legal "time clock" begins not with the exposure but with the manifestation of injury. Eight state legislatures, however, have reaffirmed the traditional statute of limitations, which begins at the time of the alleged exposure. In such states, recovery for long-latent damages is almost impossible.

Identifying a defendant liable for a specific chemical exposure in the environment is more difficult than identifying, for example, which pharmaceutical company manufactured the tranquilizer taken by the pregnant mother (that eventually resulted in the daughter's cervical cancer), or which asbestos manufacturer supplied a fiberboard installer with the hazardous raw material. Landmark cases in the areas of pharmaceuticals and asbestos have resulted in the adoption of rules of joint and several liability in most states. While there are several alternative rules, in essence they hold that a defendant who was remotely connected with a hazardous chemical may be held liable for a share of the damages. If other parties are unidentifiable, or bankrupt, then this defendant may be held liable for all the damages. This rule of apportioning blame among defendants increases the probability that *someone* pays for environmental risks imposed upon third parties. While this rule serves the victims well, it can be counterproductive. By making a firm "its brother's keeper," the costs of poor waste-handling practices are spread to other firms, and incentives for deterrence are attenuated. Obviously, if joint and several liability are viewed as a search for the "deepest

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pocket," the objectives of optimal deterrence and fair compensation may conflict.

The application of theories of joint and several liability is yielding some interesting consequences. For one thing, it raises the likelihood of insurers paying claims against clients that resulted from damages caused *not* by their clients (whose facilities they have inspected and analyzed), but by other firms. Insurers have little way of assessing such risks. One response is the establishment of voluntary clean-up efforts by the chemical industry, which appear more effective and speedier than federal efforts under the Environmental Protection Agency's Superfund. Second, many waste-handlers now favor the establishment of standards of care through regulation. Tough regulations reduce the chances of a responsible firm's (and its insurer's) having to pay the bills for a careless competitor. Insurers like tougher regulations on chemical handlers because claims cannot be made for accidents caused by behavior that violates regulations.

The major remaining barrier to recovery in toxic tort litigation is the cost of obtaining scientific testimony. In response, plaintiffs' lawyers have developed new techniques of mass disaster litigation. Under a "group action," a single attorney acts as trustee for a defined group of individuals who allegedly suffered damage from the same cause, but not necessarily at the same time or with the same injury. Joining the group for a fixed fee, each plaintiff retains his own counsel, who may meet regularly with his counterparts. The trustee operates as a central clearinghouse for dispatching a background package of data containing sample pleadings, answered interrogatories, medical articles, governmental publications, and newsletters. Most important, common expert testimony on discovery and scientific causation can be submitted as a deposition in each plaintiff's own jurisdiction. While a significant factor in reducing the costs of litigation, group actions can only present scientific evidence that is as good as the state of the art—which is modest at best.

In the face of scientific uncertainties and conflicting expert testimony, some courts may put to one side complex, technical data and assumptions. The court may ignore the problems of isolating the harm-causing substance, tracing the pathway from the polluter to the plaintiff, and showing the etiology of the disease. Instead, it may simply ask whether it is more likely than not that the plaintiffs suffered a particular injury as a result of presumed exposure to the defendant's chemical hazard.

Such a court is amenable to evidence of whether the incidence of the injury, say a particular tumor, in a population exposed to the hazard is at least twice as high as the incidence in a similar, unex-

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posed population. Suppose, for example, there is normally one tumor per 10,000, but among the plaintiffs, the incidence is three tumors per 10,000. The court may reason that there is more than a 50 percent chance (the odds are two to one) that the plaintiffs' injuries were caused by the hazard. Clearly, the court cannot identify the one in 10,000 who would have incurred the tumor, so the rule may result in overcompensation. If one accepts the Rawlsian "veil of ignorance" as a reasonable premise (no victim knows whether he would have had the tumor anyway), the result is not necessarily unjust to the plaintiffs.

Can statutes fill the gap?

Despite the improvements in procedures for recovering from toxic torts, there are significant gaps which make the achievement of acceptable risk through the tort process improbable. Winning in court does not necessarily guarantee recovery. The mortality of businesses is often higher than the mortality of their victims. In several cases, the polluting business has been dissolved or declared itself bankrupt, and the victim has been unable to recover damages. Furthermore, losses to victims may exceed the liquid assets or net worth of corporations.

Because of time lags, losses to victims in the distant future do not inevitably translate into losses to corporations at the time when risk management decisions are made. In a corporate environment where the rewards for risk managers are based upon minimizing the current costs of accidents plus accident prevention, the cost of future accidents may be given short shrift.

The imperfections in the tort process and the attenuated incentives for business risk management render asymmetric the distribution of benefits and risks from chemical technologies. Generally, the public finds least acceptable those risks which are asymmetric. Clearly, this characteristic, among others, helps explain the widespread public dread of chemicals in the environment.

Because of the perceived inability of the tort law to regulate chemical hazards sufficiently, Congress passed several acts in the past decade. The bills of the early 1970s, like the Clean Water Act and the Clean Air Act, enable the EPA to establish permissible levels of discharge or emission of hazardous pollutants. These levels are supposedly established at concentrations that have "acceptable" consequences on human morbidity and mortality. For example, a business can intentionally and knowingly emit up to ten parts per million of the carcinogen vinyl chloride into the air. In practice,

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standards have been established for only a handful of substances. By their nature, these statutes can have little impact on regulating human exposures to *unforeseen* chemical hazards.

Another early standard-setting statute, the Safe Drinking Water Act, mandates the monitoring and testing of public water systems. The act is aimed chiefly at the large number of small-scale, proprietary water systems, which are often operated with minimal testing of impurities. Operators of water systems are expected to eliminate contaminants that are above the approved concentrations, but relatively few standards have actually been set. The act has virtually no provisions for deterring the behavior that results in the contamination of these water supplies.

The Toxic Substances Control Act (TOSCA) offers greater potential for regulating exposures to risks throughout the chemical life cycle. It provides procedures for assessing the risks of both new and existing chemicals. Chemical manufacturers must provide the EPA with a pre-manufacturing notification (PMN) for any proposed new chemical or expanded use of an existing chemical. This notification must include a description of the proposed volumes and uses of the chemical as well as a preliminary analysis of the toxicity to humans at exposures likely to be encountered during the chemical's life cycle. On the basis of the PMN, the EPA can approve or reject the chemical, or require further testing.

While the EPA has required additional testing on only a handful of chemicals and has rejected only one, the proximate effects of the PMN requirements appear dramatic. The number of new chemicals introduced annually has dropped from about 2,000 to about 700. Whether these effects are beneficial is not clear. Perhaps many of the 1,300 chemicals that were not introduced would have yielded benefits far in excess of their risk. If so, then why were they not introduced? The reason is that the cost of preparing a PMN is estimated at about $25,000. This sum appears small, but in fact absorbs a substantial proportion of the expected profits of many small-volume specialty chemicals.

TOSCA also mandates the assessment of the 50,000 chemicals in current commerce that appear most risky. The burden of assessment is on government. TOSCA provides manufacturers with no incentives for performing risk analysis, or for discarding risky chemicals from their product line. The testing program has proceeded at a sluggish pace.

The Resource Conservation and Recovery Act (RCRA) of 1976 and the "Superfund" Act of 1980 focus on the "back end" of the

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chemical life cycle; that is, disposal. RCRA establishes a "cradle to grave" system which records shipments from the disposing firm to the ultimate waste site. RCRA also authorizes the EPA to establish technological specifications for hazardous waste site operators. Together, these provisions raise the cost of disposing of chemicals. Rising disposal costs can encourage recycling or recovery of waste chemicals or discourage the use of the hazardous chemical in the first place. If fully implemented, RCRA should reduce the probability of the "midnight dumping" of hazardous substances, as occurred, for example, in Times Beach.

The traditional proscriptions and prescriptions of these statutes serve a limited deterrent function. In essence, the strictures establish levels of exposure to hazardous substances that are "acceptable" under the statutes, but are unlikely to reduce the risks of accidents like Bhopal. Only Superfund copes with the consequences of accidents, but it ignores victim compensation.

The turn to incentives

Superfund makes less use of traditional strictures and a broader use of economic incentives than any other environmental statute. Three economic incentives in the act reflect the spirit of market-oriented regulation.

Superfund imposes a tax on the tonnage production of a specified list of petroleum and chemical products. These tax revenues are dedicated to a fund for financing the emergency response to chemical spills at all stages of the life cycle and for clean-up of abandoned hazardous waste sites. Another tax is levied on tonnage disposed at hazardous sites. These revenues are dedicated to a federal fund for monitoring and operating waste sites that have completed their life cycles.

A tax on the production of chemicals is a crudely-honed incentive. This tax presumes that the production of chemicals *per se* imposes risks on society that may be realized somewhere in the chemical life cycle, and that the tax rate should vary with the presumed hazardous classification of the chemical. The production tax does not distinguish between careful and careless businesses. Similarly, the disposal tax does not distinguish between waste sites that are perilously close to municipal water supplies and those which are not. Nevertheless, in the absence of credible risk analysis, tonnage of production and disposal may be a workable surrogate for chemical risk.

The third, and perhaps the most important, economic incentive is the "financial responsibility" requirement. Both Superfund and

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RCRA require disposers of hazardous chemicals to demonstrate that they are financially capable of coping with the consequences of third-party chemical injuries. Superfund extends this requirement to transporters and to facilities generating hazardous waste. Both acts favor, but do not require, the purchase of insurance for pollution damages. Large businesses that can meet a test of financial strength do not have to purchase insurance.

If properly structured, financial responsibility requirements can bridge the gap between private risk management behavior and socially acceptable behavior and can also reconcile the compensation and deterrence objectives of social risk management. Proper structuring includes setting the limits of financial responsibility near the upward tail of the distribution of damages. Congress currently sets the limits at $3 million per occurrence with a $6 million annual aggregate for disposal sites. The association of state insurance regulators believes these limits are too low. With the help of the insurance industry, limits for waste-generating facilities will be fixed by the end of the decade.

Moreover, the expected value of future damages from current operations should be reflected in current expenses. That is, the risks a company poses to the public should be reflected on its income statement and balance sheet now.

In theory, these simple principles will encourage the adoption of cost-effective risk-reduction practices. Suppose a chemical company's pollution insurance premiums were based upon the expected frequency and severity of damages. The company would then have an incentive to undertake risk-control measures that cost less than the premium savings. The everyday analogy is a reduction in insurance premiums for the nonsmoker or safe driver.

It is interesting that the implementation of both RCRA and Superfund relies upon an insurance mechanism that was poorly developed at the time of their passage. The acts presumed that pollution liabilities are insurable.

Traditionally, insurable exposures have several well-defined characteristics: they are homogeneous and numerous enough to allow risk pooling; the loss must occur in a well-defined time period; and the chance and magnitude of loss must be calculable. Gradual pollution accidents have none of these characteristics. As a result, the insurance industry has had some difficulty in developing policies.

While there are tens of thousands of hazardous waste sites and generators, the demand for pollution liability insurance has been small. Only waste handlers and transporters come under the financial responsibility requirements. In Texas, for example, only about

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one-quarter of waste disposers large enough to meet the test of financial strength also purchase insurance. Because financial responsibility requirements were phased in over several years, small firms did not have to meet financial responsibility requirements until this year. Of the firms that do insure, very few purchase more than the statutory minimum.

Unlike commonplace accidents—for example, fires—events like the leak of an underground chemical tank are quite difficult to pinpoint. If a house burns down in 1984, the insurer that issued the homeowner's policy in that year must indemnify the victim even if the claim is filed in the following year. By contrast, the actual corrosion of a tank may have taken several years, while the leaking to the groundwater may have taken a decade. The tank owner may have switched insurance companies many times in the interim. Under the traditional insurance policy, which is activated by the occurrence of the accident, it is almost impossible to determine *which* insurer is responsible for indemnifying the tank owner for his liabilities.

Because chemical disasters are such rare events, the computation of rates on the basis of loss experience is nearly impossible. Even if loss data were available, they would reflect outmoded safety technologies that are no longer in currency. Furthermore, insurers have little knowledge of the risk reduction technologies available to the insured. Consequently, they are unable to offer premiums that are proportional to the risks.

The insurability problems have proven difficult but not insoluble. Beginning in the late 1970s, several members of Lloyd's of London began offering pollution liability insurance. In the 1980s, a few American firms entered the market with the backing of the large London "reinsurers," who participate in part of the risk.

Pollution policies have been tailored to the unique characteristics of chemical hazards. While policies differ among companies in their exclusions and coverage, they are all claims-made policies, with a specified retroactive date. For example, a chemical company may wish to insure against claims filed in 1985 for accidents that may have originated in 1910, the date of the company's founding.

Premium-setting has proven difficult. One frank underwriter told the author, "We have no data, no actuarial table, no cookbook policy. Insurers are supposed to be professionals selling products of substance and integrity, not just guesswork. Prices for risks are by gosh and by darn, and what the market will bear."

In practice, the insurers have seriously misjudged the risks. The difficulties in anticipating the behavior of the courts has only ampli-

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fied the difficulties inherent in chemical risk analysis. Last year, London reinsurers had to pay five times as much as they have collected in world-wide pollution liability premiums in the past four years. The reinsurers began withdrawing from the market in late 1984, and the number of American pollution insurers has shrunk to about eight. Most insure "light risks" like gas stations and dry cleaning establishments. Only two insure the "heavy" risks, from which catastrophes are most likely to result.

Why not increase insurance premiums by a factor of five or more until they surpass the break-even point? The reason is "adverse selection." Higher premiums will encourage firms that believe they face few risks to self-insure. This exodus leaves the insurers with the riskier exposures. The ratio of losses to premiums then rises, the industry raises its premiums, driving additional firms into self-insurance, *ad infinitum*.

Deterrence vs. compensation

Clearly, it is difficult to establish any workable mechanism for regulating chemical risk. As currently developed, none of the three regulatory mechanisms—tort law, statutes, or economic incentives—adequately deals with both the deterrence and compensation objectives of public policy. The brief experience with pollution liability insurance suggests that market mechanisms for managing risks are not easily established.

The real problem is that no one, neither insurers nor EPA regulators, knows how to analyze chemical risks in a credible manner. Low risks are inherently poorly-estimated and ambiguous. Furthermore, there are well-known biases in the estimate of such risks. The public tends to overestimate the likelihood of catastrophes, while technological experts systematically underestimate the likelihood. Incentive structures create differences between risk analysts in the insurance industry and risk analysts in government. If insurers underestimate risks in premium setting, they suffer financial losses. If they overestimate risks, then their product will be overpriced compared to competitors. In contrast, government risk analysts are penalized if unlikely accidents happen, but they are not penalized for setting standards too high. Without credible risk analysis, what can be done?

One approach is to separate the problems of deterrence and victim compensation. The no-fault Workers' Compensation system exemplifies this approach. This system is based upon "rebuttable presumptions" of causality that lessen the burden of proof and expedite compensation.

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A congressionally-mandated study suggested the creation of a two-tier compensation mechanism for toxic injuries. Tier One consists of the new toxic tort law, with the formidable barriers to recovery balanced against the potential for large awards for pain, suffering, and other damages. Tier Two consists of an administrative system for reimbursing medical payments and lost wages. Because of the lesser burden of proof, Tier Two would offer recovery to a larger number of victims than Tier One, but at a considerably lower level of compensation. The compensation fund would be financed by a tax on the production of chemicals, just like the clean-up activities of Superfund.

When Superfund was passed, victim compensation schemes like Tier Two were defeated. Opponents saw the attenuated burden of proof as offering an open-ended entitlement. Citing the experience of the Black Lung Fund for miners, opponents saw no grounds for excluding anyone with the remotest claim of injury from exposures to chemicals in the environment.

Three states have established victim compensation funds, and the fears of the opponents have yet to be realized. In California, for example, fewer than half a dozen claims have been filed. As victims become aware of the existence of pollution victim compensation funds, however, Pandora's box might open indeed.

A more fruitful approach to chemical risk management is to develop the three mechanisms described here as a mutually reinforcing tripod. Statutory adjustments can make both the tort process and economic incentives more effective. Financial responsibility requirements can insure that successful plaintiffs will not face a bankrupt defendant. A predictable tort process can make pollution risks more insurable. Economic incentives can make the statutes self-implementing.

The standardization of toxic tort law through federal statute would reduce the legal ambiguities facing the insurers and their clients. Congress should enact a discovery rule and standards of strict liability for third-party personal injury and private property damages, similar to those enacted in nuclear regulation.

In order to serve a regulatory purpose, the pollution liability insurance market must be bolstered on the demand side. Demand could be strengthened by employing restrictions already implemented by several states. These include requiring generators of hazardous chemicals to demonstrate financial responsibility, prohibiting self-insurance, and raising the required minimum insurance levels. Greater demand should facilitate risk pooling and provide insurers with enough claims experience to improve risk analysis.

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Compulsory insurance is still no guarantee that private insurers will provide adequate insurance. Nuclear power plants have been required to insure since 1957, when liability limits were set at $500 million per incident. Private insurers were deterred by uncertainty about the risk (there still is little loss data) and the difficulty in risk pooling (the number of plants worldwide is less than 200). Even now, insurers have been willing to provide less than $200 million in coverage, and the remainder of the liability is covered by mutual insurance among plant operators.

Because of the larger number of waste-handling facilities (tens of thousands) and the availability of loss data, greater possibilities for risk pooling exist for chemical than for nuclear risks. Compulsory insurance for chemical pollution may thus be a more workable option. So long as premiums are unregulated, the supply of insurance should be forthcoming. Given the dread of chemicals, the public is likely to resist any pressure from the chemical industry to make pollution liability insurance "affordable" by subsidizing premiums. While no panacea, an expanded pollution insurance mechanism might be the linchpin of an effective chemical risk management system.

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Welfare and dependency in Switzerland

RALPH SEGALMAN

SWITZERLAND is not often thought of when we discuss the welfare state. In many respects it is not a welfare state. There is, for example, no national health service and most of the population is covered by voluntary health insurance. There is also no central program to provide a minimum guaranteed income for all of the population (other than for the aged and infirm) as found in England, Norway, and Sweden. Unlike the major European welfare states, the Swiss federal government defers in much greater measure to local autonomy. But in one critical respect it has achieved what the United States and European nations traditionally defined as welfare states have not: It has all but eliminated "welfare dependency," or intergenerational poverty, and it has done this in a strikingly different manner than other developed societies.

Whether Switzerland has lessons to offer the troubled welfare states of Europe or the United States is another question. But first, let us describe how Switzerland deals with the poor, and how it shapes policies to encourage self-sufficiency and to prevent the development of dependent people in its population.

The Swiss begin with a view of combatting poverty which is very different from that of the other developed countries. The Swiss

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approach to the problem is framed as two complementary questions: What needs to be done to change the situation so that the problems will be alleviated rather than suppressed? What can be done to resolve the poverty problem, in a way that does not itself bring about unintended and counterproductive results?

And so the Swiss have arrived at an arrangement for the care of the poor which, first of all, has to meet the requirement of aiding them in such a manner that they are temporarily helped—yet not encouraged to become dependent on government aid. Second, aid has to be tied to a policy of encouraging the poor to help themselves as much as possible, and to move them out of poverty as rapidly as possible, if not in that generation, then at least in the next.

The Swiss have established a far-ranging and expanding program of compulsory social insurance that imposes on each worker and his employer a compulsory shared-risk program to provide for both the expected and unexpected financial needs of most other workers. This primarily self-sustained (with a minor government contribution) insurance program provides the worker with old-age retirement, disability and sickness insurance, survivors' insurance, accident insurance, and unemployment compensation. Unlike the social insurance policies of many other industrialized nations, however, these programs are designed so that the beneficiary cannot control the outcome. Unemployment compensation is given only if the person is validly out of work and readily available for employment as it opens up. Disability is strictly defined in such a way that it has not, as it has in many other nations, become an alternative to work. Social insurance in Switzerland is operated as a true insurance program; the only difference between the Swiss program and the commercial form of insurance is that the Swiss program covers almost everyone. The lesson which Swiss social insurance administrators have learned from the insurance business generally is that client behavior usually changes in response to administrative actions—and that benefit levels should be structured to account for these changes.

All this has been done primarily through administrative policy. People are kept working and contributing to the fund until a bona-fide crisis occurs. Even then, Swiss social insurance requires that efforts be made to rehabilitate the infirm (during the benefit period) to return them to self-sufficiency if it is possible and feasible. Otherwise, the client can suffer a decreased benefit.

The emphasis on the "prevention" aspects of social insurance is matched with a heavy emphasis on prevention of dependency through employment preparation. In Switzerland it is hard to avoid

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effective schooling and occupational training and experience. If a child should begin to falter in such preparation for adult self-sufficiency, it is the concern of the whole community—not just school personnel. Truancy and dropping out of school before completion are rare in Switzerland, and children not in class during the school day become the concern of local youth programs, the local police, the neighbors, the clergy, and anyone else who might be around. As for the educational-occupational offerings, they are varied and broad. There are offerings at every level and they extend into the adult years. In Zurich, male students have an educational apprenticeship completion rate of 97 percent while female students have a 91 percent rate. Even the resident Italian children of former *Gastarbeiter* (guest workers) have completion rates of 87 percent for males and 78 percent for females: The lower completion rates for Italian girls is due primarily to family pressure for early marriage. Thus, the old idea that Switzerland has few resources other than its people is matched with a national policy which ensures that its people are educationally and technologically prepared to take their places in the productive economy.

Linking immigration to poverty

Prevention of native poverty is also ensured by strict control of immigration, a policy which is similar in its stringent limitations to those of many welfare states, including Norway and Sweden. The Swiss take the view that they cannot provide for everyone in the world, or even for everyone who seeks to come to Switzerland, so they have carefully delineated a limited scope of responsibility. These limits, whatever the rest of the world may think of them, begin with a strong concern for "their own."[1] Thus, the Swiss policy on immigration operates almost as if it were controlled by a calibrated spigot which is opened only when labor shortages exist and is quickly shut when Swiss natives begin to draw excessively on unemployment compensation.

Social insurance benefits are generally much larger than public aid, but seldom at a level equal to full-time employment. The benefits are such that, in American terms, they would be adequate for relatively comfortable survival. In addition to these "First Pillar" payments, 80 percent of the working population is now also covered

[1] Currently, the non-native element comprises 15 percent of the total population —a rate higher than that of most European nations. Foreign workers are eligible for the same social insurance benefits as are native Swiss, and community welfare agencies serve both foreign and native residents in need.

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with "Second Pillar" occupational insurance funded by both employer and employee. The Second Pillar payments are often much larger than the basic program, which is compulsory for all workers.[2]

Thus, the policy and administration of social insurance in Switzerland is similar in many ways to the policies and administration of social insurance in other countries to the degree that the latter have not been integrated with their public assistance programs. In most respects, the Swiss social insurance system provides greater and more adequate security for the population than that found in most other nations. One exception to the strict separation of the Swiss social insurance program from public assistance exists in the case of the aged or invalids with an income of less than 12,000 Swiss francs (about $5,500) after deductions of medical costs, excessive rental costs and other special needs. This program (the *Ergänzungsleistungen*), which is similar to the Supplementary Security Income program in the United States, is federally administered and requires no prepayments. A limited but flexible means test is required, as it is in all Swiss public assistance programs. In essence, the federal government provides a guaranteed income, on application, for the aged and for invalids who are without resources. Administrative discretion, usually prohibited in other nations, is exercised in the Swiss program in order to prevent inappropriate use of disability provisions, such as has recently occured in Holland.

The availability of adequate primary (First Pillar) and secondary (Second Pillar) social insurance, in addition to a broadly-available supplementary program, and additional cantonal social insurance, prevents the occurrence of poverty among the aged, sick, and handicapped so frequently found in other developed countries. Cantonal supplementary insurance has grown from 72 million francs (about $35 million) in 1950 to almost 1.5 billion francs (about $730 million) in 1980.

Despite all this preventive effort, some Swiss occasionally find themselves in poverty. Such persons are served not by the federal social insurance program but by the local communities and the cantons. The differences between Swiss social insurance and public assistance are carefully maintained because these differences serve a necessary function. The social insurance programs are administered by the central (federal) government, but public assistance is operated by local communities and cantons. In 1980 cantons and local

[2] The "Third Pillar" of the Swiss social security system is the individual's own savings and insurance protection. The Swiss rate of personal savings is one of the highest in the world, despite the fairly low interest rates paid by Swiss banks.

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communities spent 1,607 million francs on public assistance to families (amounting to about $803 million). This is in addition to 261 million francs (about $130 million) spent on housing for limited income families in 1980, and 85 million francs (about $42 million spent) on miscellaneous welfare projects. Most of these funds came from local and cantonal sources. No more than 30,000 people of all ages received this form of aid (aside from the *Ergänzungsleistung* recipients served at the federal level). In addition to these welfare expenditures, the federal and cantonal programs provide family allowances for larger families.

Swiss aid to the needy holds up well in comparison to that of other industrialized nations. Anton Kausel's comparison of welfare indicators shows Switzerland third after the United States and Sweden for 1970—well above the norm for other Western nations.[3]

Welfare in the cantons

Public assistance in Switzerland, unlike social insurance, is not a concern or responsibility of the federal government. In fact, federal data is not even collected on public assistance. The control of public assistance by the local community and the cantons has been jealously guarded since the origins of the confederation. Although all individuals have freedom of movement within the country, the individual's home community or canton carries the responsibility of providing for his care, either directly, if the individual is residing there, or on a reimbursement basis for the first five years he resides in another community.

Because public assistance is funded from local and cantonal sources, it becomes a matter of concern for each local community to prevent dependency, if possible, and to work with those who are dependent so that they can become self-sufficient as soon as possible. If a family is so beset with problems as to be unable to become self-sufficient in a short space of time, then the community authorities make special efforts to see to it that the children in that family are reared in a manner which will make them self-sufficient as they reach adulthood.

The public welfare programs of the local communities vary from community to community, but there is general similarity in how the welfare workers view their assignments and how they carry them out.

[3] Kausel calculates comparative welfare indicators in terms of real GNP per capita, converted into an index number based on Austria 1970 = 100. Anton Kausel, *Das Wirtschaftwachstum der Nationen von 1860 bis 1970* (Vienna: Arbeitsgemeinschaft für Lebensniveauvergleiche, n.d.).

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Significantly, all public welfare aid is *temporary*, and continues only as long as the cause of impoverishment lasts. Only in the case of the elderly and some of the physically or mentally handicapped does this help continue indefinitely. But for the Swiss, any aid plan, once developed with the recipient, is quickly followed by consideration of how long the aid is to be given, and how soon the recipient will again be able to become self-supporting. This kind of a discussion involves questions of education and training, past employment and work skills, further education and training required, and plans for finding employment again. If full-time employment is not immediately possible because of child care arrangements, school and day-care resources are provided in order to make part-time work possible. Even part-time employment is usually viewed as temporary, in that the assistance recipient is expected eventually to become fully self-sufficient. There is essentially a "contract" between the recipient and the agency which covers the responsibilities for the amount and manner of service to be given by the agency for the recipient's movement toward independence.

In most local community welfare ordinances this aid is described as "advice, counseling, information, and other social services, including, if necessary, financial and material aid." There is usually no uniform schedule of grants, merely a set of guidelines which are considered along with the recipient's goal and plan. Considerations in calculating the amount of "temporary" aid include not only the general and special needs of the recipient, but also the amount of money he can eventually earn, and whether a welfare grant larger than a beginning salary might discourage efforts toward training and employment.

In the United States and in other Western countries welfare is generally given on a basis of equality for each category of recipient. The delivery of the welfare grant is seen as the primary purpose of the agency, rehabilitation and social services are elective if available, and the welfare grant remains the same for as long as there are no changes in the recipient's situation. In Switzerland the amount of the grant varies regularly according to the client's progress.

Another difference between the Swiss and other welfare systems has to do with the responsibility of relatives and family. In some locations responsibility of relatives extends even to affluent brothers and sisters, who are called upon by the government to provide aid to needy siblings. Parents and grandparents are usually required to provide for grown children in need if they have the resources. Adult children are also usually required to aid their parents and grandparents if necessary. In cases of divorce and separation men are required

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to supply adequate spousal and child support. Where child payments are not forthcoming on a regular basis, the public welfare agency in most cantons is required by law to deliver the court-specified sums to the mother and then press for repayment. And unlike court-ordered child-support payments in the U.S., Swiss payments are usually effectively recovered—a result of Switzerland's unique tax system, and of its compulsory military service laws.

Public aid in Switzerland can be recovered by the authorities from an adult recipient or his direct relatives if he later becomes affluent. Thus some recipients tend to ask for less aid than they would otherwise when they know that they may have to pay it back. Similarly, public aid funds which are secured under false pretenses can be recovered with interest by the local community, a practice which keeps incidence of fraud to a minimum.

The enforcement of the "means test" for public welfare in Switzerland is easily carried out, due in part to the tax collection system. Each year every person files an income and wealth tax report. Local assessments are first levied on this basis, then cantonal assessments, and, finally, the federal assessments. For the sum of 5 francs (exempted in the case of the welfare authorities), in most communities a copy of any individual's tax reports can be secured by anyone and without having to state a reason. If a report contains inaccuracies, these can be challenged by any other taxpayer. Thus, the tax record is an unusually authentic source for information on a person's resources and economic ability to support himself or his family.

Nevertheless, public welfare is conducted on a confidential basis in Switzerland. It is illegal under most community ordinances for a public welfare worker to release information without client permission, even if such information is requested by the local public welfare board members. A public welfare worker may not interfere with the constitutional or personal rights of any client. The client, however, is required to cooperate with the welfare worker, not only in regard to determination of needs and resources, but also in relation to improving his own situation and that of his family. A client who does not cooperate in working toward self-sufficiency may find that the nature and extent of his welfare grant have been changed, or that his welfare grant is to be dispersed in small increments by an appointed guardian, or even that his welfare grant is now to be in the form of materials and vouchers. His only recourse is to appeal beyond the worker or supervisor to the public welfare commission or town council. Under such circumstances, the issue of confidentiality becomes moot.

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Similarly, the welfare worker is authorized, without permission of the client, to release information to youth and community authorities when the client has not been acting responsibly and where guardianship is to be considered. In the United States, the interaction between welfare worker and aid recipient is routinized and focused primarily on regulations of eligibility for aid, and the authorized levels of grants. In Switzerland almost any aspect of the client's life, and that of his family, may be raised for discussion by the welfare worker. The worker has generally unlimited controls in requiring interviews with the client, or conducting collateral visits with the relatives, employers, teachers of the client's children, and others who may, in any way, affect the client's progress toward becoming independent. Thus, the welfare worker, both formally and indirectly as well, can shape the way in which public aid and public social services are used by the client and his family. If a client seeks to go beyond the case worker's constraints, or beyond the agency's constraints, he then comes face-to-face with community authorities who are almost always in agreement with the goal of self-reliance. And public officials are even more aware of the need to avoid welfare dependency than are the welfare workers themselves.

Obviously, Swiss public welfare administrators have a rather different view about poverty and welfare than that of officials in other Western countries. They realize that poverty is often caused by a variety of factors, including structural unemployment, and individual problems and conditions which prevent adequately remunerative employment, as well as dependency, which may be interactive with the availability of public aid. But they tend to individualize interpretations of why a particular client is in need and view the world as a place where individuals have a choice. If some are needy, then it is because they have made a wrong choice, or because they have been unfortunate in their circumstances, or because of a combination of these factors. Swiss administrators view welfare recipients as people who can change their lives once they have been helped to determine what has to be done. It is an attitude quite at odds with that of administrators in other countries, who tend to emphasize the goals of efficiency in the "delivery of benefits," equalitarian handling of clients in a massive system, and improved management of their assignment fulfilling diverse regulations.

Many Swiss welfare workers view welfare itself as an iatrogenic disease; that is, a disease caused by professional treatment. One Swiss welfare official drew a parallel between "welfarization" and

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excessive bed-rest after surgery. "If the client gets used to inaction he will lose the ability to fend for himself."

Controls: informal yet effective

Admittedly, this system only works because of powerful informal controls. Probably the most effective of these is the Swiss family structure. From an early age, Swiss family socialization at almost all levels of society operates to shape children into functional citizens and workers. Community attitudes reinforce the authority of the family over children, and children soon learn that their behavior must conform to a standard of consideration for others. Each child is impressed with the assignment of picking up after himself, of doing the work assigned to him and of preparing for self-sufficiency. Children soon learn that as members of a family they must care for their siblings and be responsible for their well-being.

This family pattern is reinforced by community patterns. Aside from Zurich, which has approximately 354,000 inhabitants, there are few large cities in Switzerland. Most of the population live in small villages and towns easily reached by an effective network of suburban trains, trams, and buses. Residents may work elsewhere, but they participate actively in communal decision making. Many communities function on a town-hall basis, and most decisions regarding expenditures—on schools, housing, and welfare policies, for example—must be ratified either by a popular vote or a meeting of all electors. The social distance in these communities is minimal and news about individuals travels fast. People hear about jobs, informal community help is given to the aged and sick, and there is a high level of informal mutual aid. Neighborly aid is frequent, as is the operation of numerous voluntary social service programs.

Yet another reinforcement is the *Jugendamt*, a publicly-supported recreation, social service, supervision, and career program which serves a large proportion of the youth in each town. In no other country are such extensive and intensive efforts made to aid and direct a nation's youth into positive social activities and away from those which are self-destructive and wasteful. The degree and amount of services given to young people and the attempt to tie recreation to character and career development among youth is both effective and unusual. There is a close working relationship between public welfare services and the *Jugendamt* which ensures that families given financial aid are also given advice, and more. The ease with which *Beistand* (supervision by locally-appointed guardians) is established and the frequent local emphasis that such services shall

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include *Rat und Tat* (advice and action) is matched in few other nations.

Still another informal control can be found in the Swiss family relations courts. While poverty has become "feminized" in many Western nations as a consequence of divorce and unmarried motherhood, this is not so in Switzerland, in part because of Swiss divorce and family relations courts. In each of the welfare agencies I visited, I found that in contrast to the United States there were no complaints about divorce courts and considerable respect for the helpfulness of the divorce courts in preventing dependency. Husbands who are divorced from their wives must provide sizable amounts for child and spousal support, and those men who do not have their wages garnished. Funds are advanced automatically in many cantons to divorced wives with children by the welfare agency, which then secures reimbursement from the fathers by legal mechanisms. The fact that most fathers do pay what has been specified by the courts in Switzerland makes it more probable that they will also visit their children, and thus, serve as a parental influence on them. The only exceptions apparently are where the father is a foreigner, and thus, enforcement of court actions is ineffective. The Swiss rate of paternal determination and paternal support (outside marriage) is also much higher than in most other nations. We should note that the Swiss rate of children born out-of-wedlock is low: 5 percent in 1982, 3.8 percent in 1970. Over one-third of such births are quickly followed by marriages. In the United States, the 1980 figure is 18.4 percent and the 1982 estimate is closer to 23 percent; similar levels are found in many other industrialized nations.

Consider one example of the discretion of these courts: In a conversation with a Swiss banker, I learned that he had recently provided a bond to guarantee child support. This was occasioned when a divorced man from a small town in Switzerland was summoned to meet with the divorce judge. The judge was concerned that the man's publicly-announced betrothal and eventual marriage to a second wife might result in his nonpayment of the scheduled child and spousal supports. The judge indicated that, although he was not legally concerned as a judge, he was concerned as a citizen of the community. He did not want to see the community having to support the man's first family. He indicated that, because of his concern, he planned to appear at the impending marriage to protest that this new marriage was fundamentally immoral in that the man intended to develop a new family at the community's expense. The judge was dissuaded from his plan to publicly protest the marriage

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only after the man had posted a bond, participated in by his brothers, sisters, and parents, which guaranteed continued child and spousal support until the children of his first marriage were grown.

Most Swiss judges probably do not involve themselves to this extent in the enforcement of their decrees, but the fact that this does occasionally occur provides us with an indication of the informal community controls which serve to limit or prevent dependency.

The job of the district courts relating to domestic relations is assisted in many ways by the formal controls and structure of Swiss society. Each male votes (elections and referenda are frequent), pays taxes, and registers for military duty up to age fifty (and to age fifty-five for officers). If he wishes to move to another commune, he must de-register at the offices of the commune where he lives and then register at the offices of the commune he is joining. Not keeping one's registry up to date is a violation of tax regulations, compulsory military duty, voting regulations, and police regulations. No errant father can be lost in the system unless he leaves Switzerland.

Similarly, the operation of the court system is such that collection of child and spousal support can be enforced by the withholding of wages, by the establishment of liens on property, and by a variety of informal and social constraints. It must also be noted that in Switzerland divorce is not always granted by judges. There is no "no-fault" divorce in Switzerland, and, hence, people try to make their marriages work.

One will not be surprised to find education well-integrated into this society of high controls. Failure in school becomes a matter of concern, not only for the school personnel, but also for the child's family, relatives, diverse agencies, and interested people in the community. Because of the concern for the family's *Ruf* (family reputation in the community), and because in Switzerland completion of basic education is the path to economic success and self-sufficiency, parents and children alike are extraordinarily serious about education. Observers of Swiss education have referred to the heavy emphasis placed on scholarship and discipline in the Swiss schools, the high status of teachers and the well-established conventions governing student-teacher contacts. Each child is taught to assume responsibility for his actions, whether they occur in groups or alone. Instilled in each child is the importance of doing his work and doing it as well as possible. A Swiss political scientist wrote me that from early to late age, "the true Swiss is ready and willing to work, rising early and working late" as if for the joy of it. During interviews with school officials, a familiar theme was repeated: Switzerland has no real resources, except for its people.

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Military service complements the schools in this goal. Every male young adult who is able-bodied is required to spend four months in basic training, followed by annual service. Employers are required to fund the wages of employees while on military duty, and many companies are glad to do so because military contacts are often helpful and "good for business."

If the norms and values of Swiss society are not fully absorbed by young Swiss males, military service with a local unit will usually complete the process. Each soldier in the Swiss Army is required to operate with a group and is also called upon to do his share within the group and on individual assignments. A man who goofs off at the expense of his unit has to cope with criticism, not only during the annual encampment, but also from the other men who know him. Thus military service reinforces Swiss attitudes toward welfare. To request welfare without adequate reason, or not to support his wife (or ex-wife) and children, would similarly serve to stigmatize a man in his community.

Guarding against dependency

To constrain welfare too much by formal and informal methods may be hard on people who have no alternative but to seek it; but to make it too freely available and with too few controls will lead to its spread in the population and, over time, in the employment market, with unhappy effects. Have the Swiss been too harsh or too permissive in administering welfare? An examination of the estimated dependency caseload may help to answer the question.

I sought evidence of dependent welfare in the public agencies of four cities and one smaller industrial town. In each of these a major part of the welfare load is made up of what would be described in the United States as "medically needy." These are people who have insufficient income, either from current earnings or from assets (such as earned social insurance benefits) to be able to meet their basic needs. They include many aged, handicapped, and infirm people.

Conservative estimates of those adequately covered for medical care ranges from 78 to 90 percent. The remainder are provided with medical coverage and reimbursed medical care as needed by their local public welfare agencies. This makes up a sizable amount of the work of the Swiss public welfare agencies, ranging from 20 to 30 percent of the caseload.

Because there is no central agency to collect information and data on welfare statistics, I was forced to supplement whatever data were available with estimates from social workers and public welfare

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officials. These agencies also have a temporary case load, made up primarily of people who had used up their unemployment compensation or whose unemployment compensation was less than sufficient to meet immediate survival needs. This group also contained a sizable proportion who were employed on a part-time basis. In almost all of these cases, the families were intact and were seriously searching for additional employment. Most of the unemployed or partially employed were in areas of industrial recession and were considering retraining programs or moving their families to areas where appropriate employment was becoming available. Many of these families were on the rolls only for continuation of payment of their interim medical insurance and were otherwise self-sufficient.

In all of the agencies visited there was a small part of their caseload (aside from the temporary clients, the aged, the handicapped, and the medically needy) amounting to about 5 to 10 percent who represented dependent cases of long duration. These were described as multi-problem families. In each instance, there were such factors as inadequate employment conditioning and/or training, psychiatric disturbance, a disorganized family life, disorganized handling of family funds, anti-social or incompetent role models for the children, divorced parents, parental neglect of children, distancing of the individuals from their extended families, alcohol abuse, or excessive gambling. Their number was few in proportion to the total welfare load and measures were being taken by the public welfare agency either to resolve the dependency in the present generation or to prevent it in the next one. Great care was taken to insure that children in such multi-problem families were carefully observed and protected from the destructive patterns of their parents. In some instances, aid for such families was being maintained only as long as the parents accepted supervision and guidance of their child-rearing patterns. In other instances, *Beistand* actions were taken in cooperation with the *Jugendamt* to ensure that parental responsibilities were fulfilled. In still other instances, children were placed in special homes and institutions where reportedly more than a majority succeed in maturing into responsible and productive citizens.

In a population of approximately 6.4 million, a residual dependency figure of even 4,000 such families represents perhaps one-quarter of 1 percent. In the United States the figure of approximately 6 million in a population of 220 million represents about 3 percent. Thus, the Swiss level of chronic dependency would appear to be less than one-tenth of the American level. Comparisons with other Western nations show a similar dissimilarity. Of course, Switzerland has its social problems: There is alcoholism and increasing

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drug use. But one does not sense any forthcoming change in the Swiss social patterns.

The citizens' responsibility

Is there anything to be learned from Switzerland? The country is as large as, or larger than, many other European nations, including many welfare states such as Holland, Belgium, and Norway, where dependency and its related social ills have become a serious problem. Are the Swiss so imbued with the Protestant ethic as to repress welfare dependency? If so, one could point to other countries with similar or even stronger Calvinist influences which have failed the dependency test, among them the Netherlands, Norway, and Sweden.

One explanation for Switzerland's apparent exceptionalism might be found in its historical development. This argument would hold that Switzerland has not yet caught up with the "ills" of the rest of the industrial world and that, in time, the Swiss can be counted on to drop their pride in self-reliance and their inhibitions against dependency. Yet there is little serious evidence of social disorganization in the society. Another explanation of the Swiss welfare state points to Swiss homogeneity. But with four different languages, two major religions and many schisms appearing within them, a multiplicity of political parties and opinions matching those in many other nations, Switzerland is hardly a homogeneous nation.

How, then, do we explain Switzerland's unusual set of welfare policies? It seems that the combination of an effective pattern of schooling, employment, local government, and an involved and concerned population has resulted in the successful prevention and management of welfare dependency and its associated ills.

In the United States in the 1960s, welfare became a right available without restrictions on the client beyond cooperation in proof of eligibility. In the 1970s, social services were separated from eligibility and made voluntary. Other nations in the Western world shaped their programs along similar lines. Many of these same nations have made related changes in their schools, their universities, and their other institutions, all in the direction of reducing individual responsibility.

Switzerland avoided many of these changes. We have focused on welfare, but it is apparent that this is only one of a number of problems which Switzerland has also apparently avoided.

It is interesting to note that Switzerland's first constitution was modeled after the first American constitution. Switzerland is a confederation of states, just as was the first American model. But the

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course of Swiss development has been very different. In the United States, federal power has grown enormously. The American picture is one of huge social, fiscal, and governmental problems which cannot be resolved by participation of its local citizens, and these problems become unmanageable even with the involvement of the best minds and leaders.

The Swiss scene is far different. The recognition of problems is first made at the local level. If the problem cannot be resolved at a strictly local level, then representatives of other nearby localities who may be affected by the same problems are consulted. Many area problems are resolved by intercommunal compacts.

In Switzerland the best-informed and least-corrupt people are elected on local issues since so much is concentrated on local concerns. One finds involvement and pride in local affairs. The pathway to national leadership is through local leadership. In an interview with Professor Hans Peter Tschudi, former president of Switzerland, I learned that he had gotten his start in Swiss politics by working as a commissioner in the Basle Town community on their Buildings and Works Program. In over twenty years of service on this commission, not one instance of fraud was reported.

At the local level it is possible for everyone to know each other. It is also possible at this level to ask questions and to receive clear answers, to understand the issues and the people affected. At the local level, the citizen either gets involved or he suffers the results of someone else's activity.

It would probably be impossible for the other Western nations to decentralize to the degree the Swiss have. But probably the first lesson from the Swiss experience would be to relegate as many problems and tax bases as possible to smaller local units of government where the citizenry can get involved. The apathetic or dormant local American community would soon awaken when it finds that it holds both the responsibility and assets related to the issues.

A second lesson would be to act with care in maintaining the ethic of responsibility. Every piece of legislation in Switzerland seems to ask: Does this law grant rights without responsibility?

Recently, the problem of "concubinage" (persons living together without marriage) was seriously considered by all levels of government because it poses a possible threat to family life and adequate child socialization. But, after much discussion, it was left to the cantons to act, and in seven cantons the practice is still illegal.

It is hard to imagine Swiss law operating to weaken the prevalent ethic in the way some laws have in the United States. Thus, up

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through the 1950s, grown children in the United States were generally responsible for their aged parents and most did accept this responsibility. But some persons were not provided for by their grown children and government efforts to get such support often proved futile. In order to save the "pride" of the elderly people who were too embarrassed to ask for help from their children, or those who had no children to ask, the law was relaxed and grown children were no longer required to aid their parents. What has resulted from this law is that today grown children provide very little aid to their parents, even in instances where the children are relatively affluent. Today parents receive primarily government aid.

Along with this breaking of the parent-child economic relationship has come a parallel increase in the social distance between parents and grown children and a revision of the family ethic of "caring for one's own." The Swiss policy has avoided such unanticipated effects. Parents are aided by their children, and the frequency of visitations is estimated to be relatively high. Only when the children cannot aid their parents is local aid available. And, where the children can but do not aid their parents, local government action and informal social controls suffice in this regard.

Thus, the lessons of Switzerland for other Western nations in regard to welfarization and other related social ills are clear. Welfare problems cannot be solved with a stroke of a pen in a nation's capital. They require acceptance of the assignment by individual citizens in each community.

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CURRENT READING

Murder 1, Politics 0

Politicians who fear that extensive media coverage may have created an unfavorable image of them that lingers in the public mind will find solace in a study by Michael Jay Robinson and Maura Clancey (reprinted in *The Mass Media in Campaign '84*, American Enterprise Institute, 1985).

The study, conducted through a scientific phone survey among 366 American adults, reveals the remarkable finding that few news items remain in the public mind for very long. Perhaps the most revealing statistic of the survey is that half the respondents who hung up did so after being asked, "Over the last 12 months which news event would you say you remember most?"—a reaction that suggests a shame-faced acknowledgement of a poor memory. The responses of those courageous enough to answer confirms this memory lapse: Twenty-three percent responded that they couldn't remember what the most memorable news event was.

That the public has a short memory is not news. What is interesting is that the mundane and the sensational have a greater durability in the public's recollections than important political events. Politicians, for example, hardly remain as prominent to the general public as the press would have us believe. The death by natural causes of Yuri Andropov, we learn from the study, barely surpassed the slaying (by his own father) of singer Marvin Gaye in the public's memory of the recently deceased. And the antics of race car driver-turned-murderer Christopher Wilder proved more memorable than Jesse Jackson's widely-publicized trip to Syria to free Lieutenant Robert Goodman. (In fact, events in foreign lands in general proved far less memorable than murder. Homicidal maniacs, write Robinson and Clancey, if taken as a class, proved seven times as memorable as the war between Iran and Iraq.)

For some politicians, the public's attachment to murder stories can become hazardous to their reputations. Robinson and Clancey's report on Edwin Meese is illustrative:

> We asked our respondents, "Have you heard the name Ed Meese?" One quarter of the sample said "No." We then asked those who had heard Meese's name why he had been in the news lately. One quarter of them

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had to admit they couldn't remember anything at all about Meese, or they told us things that weren't true. ("His recent tragic death" was a shocking example of misinformation.)

Another 10 percent could recall only that Meese had recently been designated as attorney general. Two percent of our respondents said Meese was about to be made secretary of state, which, we concluded, was either misinformation or a hot tip. And murder being much on the minds of our sample, one woman claimed that Ed Meese was a vicious killer —something not even Senator Howard Metzenbaum has intimated.

While Robinson and Clancey assess the inability of the public to recall foreign events or Reagan's record on the economy as nothing short of "mass amnesia," their study does reveal a strange proclivity among the populace to recall the most banal aspects of politics. Hence 44 percent of the respondents were able to state that "Where's the beef?" was the slogan Walter Mondale used to criticize Gary Hart's policies during the Democratic primaries, and an impressive 88 percent could identify the slogan with the Wendy's commercial that originated it.

Although the public's memory doesn't speak favorably for its interest in politics, it has benefitted some politicians enormously. Ronald Reagan has earned the title of "the Teflon candidate," referring to the fact that bad news never seems to stick to him. But as their research indicates, Robinson and Clancey conclude that Reagan's "nonstick" persona is probably a result of the nature of news, rather than of the President's character. Embracing this Teflon theory, the authors draw broader conclusions about the effect of news on the public mind:

. . . politics is itself Teflon coated. Good news or bad, political messages of all types usually fail to reach their target in any efficient way. And those messages and those news items that do penetrate usually fall out of public consciousness within a few days or weeks. Ronald Reagan has a nonstick surface, but he's not alone. Almost nothing sticks easily or for very long. Politics comes treated with a Teflon coating of its own.

Life Is Not a Game

The goal of the game is to amass power by finding treasure and killing opponents. Violence is a constant element of the game with assassination, poisoning, curses of insanity, demonology, and combat with all sorts of medieval weaponry. Satanic and horror violence is common to the game even including human sacrifice, the drinking of blood, commanding the undead and creating zombies, and desecrating religious fonts by urination.

This sounds like the after-dinner entertainment of warlock Aleister Crowley and his Golden Dawn coven, but is in fact a description of the popular fantasy role-playing game Dungeons & Dragons, contained in a press release from the National Coalition on Television Violence (January-February 1985). Apparently tired of playing Led Zeppelin records backwards, NCTV now wants to exorcise the demons lurking in Junior's toybox. This is no joke, according to

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NCTV, which says it has documented twenty-seven Dungeons & Dragons-related deaths. Some representative samples:

- Michael Dempsey, 16, May 19, 1981, Lynnwood, Washington, suicide by shooting self in head. An avid player. Noted to be mumbling incantations and attempting to summon demons in D&D, moments before killing himself.
- Irving Lee "Bink" Pulling, 16, June 9, 1982, Montpelier, Virginia, suicide by shooting self through heart hours after a curse was placed on him during a D&D game at school.
- Jeffrey Jacklovich, 14, February 8, 1985, Topeka, Kansas, suicide with revolver. Note said, "I want to go to the world of elves and fantasy and leave the world of conflict." Jeff was a football player and active in the Wamego County Future Farmers of America.

NCTV has found a weapon to destroy the elves and goblins preying on America's youth: cautionary cigarette-type labeling on D&D game materials. Federal legislation mandating this—the Toy Safety Act of 1984—is already on the books, says the Coalition. It is the responsibility of the Consumer Product Safety Commission to determine "when a defect exists and it creates a risk of substantial injury"—one assumes that a product that induces its users to commit suicide might indeed be considered defective—and the CPSC can order the manufacturer to repair or replace the toy or refund the purchase price. TSR Industries, manufacturer of Dungeons & Dragons, is being pressured by NCTV to conform to these provisions.

Another Coalition target is long-suffering CBS, which airs a Saturday morning Dungeons & Dragons cartoon with the collaboration of TSR Industries. The cartoon averages "50 violent acts per hour. It's the typical good fighting evil through violence format that has been found so successful at teaching violent behavior," says NCTV, which wants the Federal Communications Commission to hold hearings on the problem and CBS to air a warning at the beginning of each broadcast. If they refuse, NCTV has provided congressional addresses, so its loyal legions can deluge their legislators with letters and postcards.

Black Political Opinion: A Tale of Two Samples

Black Americans may be far more politically diverse than a careful perusal of our national press might suggest, according to a study conducted by Linda Lichter for the Center for Media and Public Affairs.

The study, written up in the August/September 1985 issue of *Public Opinion*, compared a nationwide random sampling of black Americans to a sampling of those civil rights groups and political organizations most visible in the national press. (According to citations in the *New York Times*, *Washington Post*, *Time*, and *Newsweek* during 1984, the groups receiving the most coverage were the NAACP, the Urban League, the Southern Christian Leadership

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Conference, Operation PUSH, the National Conference of Black Mayors, and the Congressional Black Caucus.)

The survey found that the leaders of these organizations were far more liberally inclined than black Americans in general, with 68 percent of the leadership sample describing themselves as liberal compared to only 27 percent of the national sampling. On social and economic matters, Lichter found that:

- The average black American takes a much harder line on crime, with 84 percent favoring harsher sentencing and 55 percent supporting the death penalty in cases of murder. Among the leadership sample, only 65 percent favored stiffer punishment and a mere 33 percent expressed support for capital punishment.
- 60 percent of the national sample were against allowing homosexuals to teach in public schools, but an almost equal share of the black leaders polled *favored* letting them do so. And, in one of the more notable disparities, 83 percent of the blacks surveyed want prayer in public schools, compared to only 40 percent of the leadership sample.
- Both black leaders and rank-and-file blacks expressed strong support for passage of the Equal Rights Amendment, although both groupings also felt strongly that women with young children should not work outside the home unless it was financially necessary. But here again, the average black American was more conservative—he was 8 percent less likely to support the ERA and 10 percent more likely to prefer that women stay home with their young children.
- But when asked if large corporations should be taken out of private ownership to be run in the public's interest, rank-and-file black Americans took a *more* liberal view than those most often recognized as their spokesmen, with the average black American favoring such a move by a 50 to 22 percent margin. The national sample was also less likely to consider the American private enterprise system fair to working people, with black leaders being more favorable by a 63 to 50 percent edge.

Perhaps most interesting are the responses to questions specifically related to race. Though one might expect the groups to be closest on these issues, the survey found that it is here that they divided most sharply. Specifically:

- Black leaders were far more likely to have complained of experiencing racial discrimination—by a 74 to 40 percent margin—and far less likely to feel that blacks today are making progress. On this question, 66 percent of the nationwide sample felt that most blacks were making progress compared to only 39 percent of the leadership sample.
- As for public schools attended mostly by black children, a mere 8 percent of the national sampling felt that the principal should

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be black compared to 35 percent of the leadership. The leadership sample was also much more likely to consider it important that blacks own the stores located in predominantly black neighborhoods: 44 percent of the black leaders polled felt so compared to only 9 percent of the black Americans polled.

- On the controversial issue of busing, the survey also found a wide disparity of opinion. 68 percent of the leadership sample favored such a policy while only 44 percent of the nationwide sample felt so.
- But the most startling finding of the survey, and the question on which the widest difference of opinion was found, had to do with affirmative action. Though both samples overwhelmingly felt that young blacks who work hard enough will succeed despite discrimination, the survey found that black leaders were 54 percent more likely to favor job preferences for minorities than were their rank-and-file counterparts. Seventy-seven percent of the leaders polled favored such action compared to only 23 percent of the black Americans surveyed.

One might interpret all this data to mean that many black Americans are not well represented by those the media most often cite as their leaders. Lichter's survey pursues this thought, asking the national sample of blacks if they felt that the black leaders who appear on TV or in the newspapers generally speak for the majority of American blacks. The answer: 52 percent thought they did, 48 percent thought they did not.

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